

# STATE GOVERNMENT

## CHAPTER 451

### HOUSE BILL NO. 1104

(Government and Veterans Affairs Committee)  
(At the request of the Department of Transportation)

### DISPLACED PERSONS EXPENSES

AN ACT to amend and reenact section 54-01.1-03 of the North Dakota Century Code, relating to moving and related expenses for displaced persons; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 54-01.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-01.1-03. (~~Effective through July 31, 2007~~) Moving and related expenses.**

1. Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the displacing agency shall provide for the payment to the displaced person of:
  - a. Actual, reasonable expenses in moving the displaced person and the displaced person's family, business, farm operation, or other personal property;
  - b. Actual, direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the state agency;
  - c. Actual, reasonable expenses in searching for a replacement business or farm; and
  - d. Actual, reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, as determined by criteria established by the state agency.
2. Any displaced person eligible for payments under subsection 1 who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection 1 may receive a moving expense allowance, determined according to a schedule established by the state agency.
3. Any displaced person eligible for payments under subsection 1, who is displaced from the person's place of business or farm operation and is eligible under criteria established by the state agency, may elect to

accept the payment authorized by this subsection in lieu of the payment authorized by subsection 1. The payment must consist of a fixed payment in an amount to be determined according to criteria established by the state agency. A person whose sole business at the displacement dwelling is the rental of the property to others does not qualify for a payment under this subsection.

**(Effective after July 31, 2007) Moving and related expenses.**

1. Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the displacing agency shall provide for the payment to the displaced person of:
  - a. Actual, reasonable expenses in moving the displaced person and the displaced person's family, business, farm operation, or other personal property;
  - b. Actual, direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the state agency;
  - c. Actual, reasonable expenses in searching for a replacement business or farm; and
  - d. Actual, reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, but not to exceed ten thousand dollars.
2. Any displaced person eligible for payments under subsection 1 who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection 1 may receive a moving expense allowance, determined according to a schedule established by the state agency.
3. Any displaced person eligible for payments under subsection 1, who is displaced from the person's place of business or farm operation and is eligible under criteria established by the state agency, may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection 1. Such payment must consist of a fixed payment in an amount to be determined according to criteria established by the state agency, except that the payment may not be less than one thousand dollars, nor more than twenty thousand dollars. A person whose sole business at the displacement dwelling is the rental of the property to others does not qualify for a payment under this subsection.

Approved March 5, 2007  
Filed March 6, 2007

**CHAPTER 452****SENATE BILL NO. 2145**

(Senators Lyson, Hacker)  
(Representatives Hatlestad, Sukut)

**CHOKECHERRY AS STATE FRUIT**

AN ACT to create and enact a new section to chapter 54-02 of the North Dakota Century Code, relating to designating the chokecherry as the official state fruit.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 54-02 of the North Dakota Century Code is created and enacted as follows:

**State fruit.** The chokecherry, prunus virginiana, is the official fruit of the state of North Dakota.

Approved March 29, 2007  
Filed March 30, 2007

**CHAPTER 453****HOUSE BILL NO. 1106**

(Government and Veterans Affairs Committee)  
(At the request of the Legislative Compensation Commission)

**LEGISLATIVE ASSEMBLY MEMBER COMPENSATION**

AN ACT to amend and reenact subsection 1 and subdivision a of subsection 7 of section 54-03-20 and subsection 1 of section 54-35-10 of the North Dakota Century Code, relating to compensation and expense reimbursement of members of the legislative assembly; and to provide an effective date.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

<sup>217</sup> **SECTION 1. AMENDMENT.** Subsection 1 of section 54-03-20 of the North Dakota Century Code is amended and reenacted as follows:

1. Each member of the legislative assembly is entitled to receive as compensation for services the sum of one hundred ~~twenty-five~~ thirty dollars for each calendar day during any organizational, special, or regular legislative session and for each day that member attends a meeting of a legislative committee between the organizational session and the regular session as authorized by legislative rule.

<sup>218</sup> **SECTION 2. AMENDMENT.** Subsection 1 of section 54-03-20 of the North Dakota Century Code is amended and reenacted as follows:

1. Each member of the legislative assembly is entitled to receive as compensation for services the sum of one hundred ~~thirty~~ thirty-five dollars for each calendar day during any organizational, special, or regular legislative session and for each day that member attends a meeting of a legislative committee between the organizational session and the regular session as authorized by legislative rule.

<sup>219</sup> **SECTION 3. AMENDMENT.** Subdivision a of subsection 7 of section 54-03-20 of the North Dakota Century Code is amended and reenacted as follows:

---

<sup>217</sup> Section 54-03-20 was also amended by section 9 of House Bill No. 1001, chapter 1, section 10 of House Bill No. 1001, chapter 1, section 2 of House Bill No. 1106, chapter 453, section 3 of House Bill No. 1106, chapter 453, and section 4 of House Bill No. 1106, chapter 453.

<sup>218</sup> Section 54-03-20 was also amended by section 9 of House Bill No. 1001, chapter 1, section 10 of House Bill No. 1001, chapter 1, section 1 of House Bill No. 1106, chapter 453, section 3 of House Bill No. 1106, chapter 453, and section 4 of House Bill No. 1106, chapter 453.

<sup>219</sup> Section 54-03-20 was also amended by section 9 of House Bill No. 1001, chapter 1, section 10 of House Bill No. 1001, chapter 1, section 1 of House Bill No. 1106, chapter 453, section 2 of House Bill No. 1106, chapter 453, and section 4 of House Bill No. 1106, chapter 453.

7. a. In addition, each member is entitled to receive during the term for which the member was elected, as compensation for the execution of public duties during the biennium, the sum of three hundred ~~forty~~ sixty-four dollars a month, which is payable every six months or monthly, at the member's option.

<sup>220</sup> **SECTION 4. AMENDMENT.** Subdivision a of subsection 7 of section 54-03-20 of the North Dakota Century Code is amended and reenacted as follows:

7. a. In addition, each member is entitled to receive during the term for which the member was elected, as compensation for the execution of public duties during the biennium, the sum of three hundred ~~sixty-four~~ seventy-eight dollars a month, which is payable every six months or monthly, at the member's option.

<sup>221</sup> **SECTION 5. AMENDMENT.** Subsection 1 of section 54-35-10 of the North Dakota Century Code is amended and reenacted as follows:

1. The members of the council and the members of any committee of the council are entitled to be compensated for the time spent in attendance at sessions of the council and of its committees at the rate of one hundred four dollars per day and must also be paid for expenses incurred in attending said meetings and in the performance of their official duties in the amounts provided by law for other state officers.

<sup>222</sup> **SECTION 6. AMENDMENT.** Subsection 1 of section 54-35-10 of the North Dakota Century Code is amended and reenacted as follows:

1. The members of the council and the members of any committee of the council are entitled to be compensated for the time spent in attendance at sessions of the council and of its committees at the rate of one hundred ~~four~~ eight dollars per day and must also be paid for expenses incurred in attending said meetings and in the performance of their official duties in the amounts provided by law for other state officers.

**SECTION 7. EFFECTIVE DATE.** Sections 1, 3, and 5 of this Act become effective on July 1, 2007, and sections 2, 4, and 6 of this Act become effective on July 1, 2008.

Approved May 1, 2007  
Filed May 2, 2007

---

<sup>220</sup> Section 54-03-20 was also amended by section 9 of House Bill No. 1001, chapter 1, section 10 of House Bill No. 1001, chapter 1, section 1 of House Bill No. 1106, chapter 453, section 2 of House Bill No. 1106, chapter 453, and section 3 of House Bill No. 1106, chapter 453.

<sup>221</sup> Section 54-35-10 was also amended by section 11 of House Bill No. 1001, chapter 1, and section 6 of House Bill No. 1106, chapter 453.

<sup>222</sup> Section 54-35-10 was also amended by section 11 of House Bill No. 1001, chapter 1, and section 5 of House Bill No. 1106, chapter 453.

**CHAPTER 454****SENATE BILL NO. 2310**

(Senators Stenehjem, O'Connell)  
(Representatives Berg, Boucher)

**LEGISLATIVE ASSEMBLY GIFTS AND DONATIONS**

AN ACT to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to legislative authority to accept and expend donations; to provide a continuing appropriation; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 54-03 of the North Dakota Century Code is created and enacted as follows:

**Acceptance of gifts - Continuing appropriation.** The legislative assembly or either house of the legislative assembly may accept donations of funds. Funds received as a donation may be expended by the legislative assembly by concurrent resolution or the appropriate house upon motion. All funds under this section are appropriated as a continuing appropriation for the purposes contained in the concurrent resolution or motion approving the expenditure of the funds.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 9, 2007  
Filed April 10, 2007

**CHAPTER 455****HOUSE BILL NO. 1107**

(Government and Veterans Affairs Committee)  
(At the request of the Legislative Compensation Commission)

**MILEAGE REIMBURSEMENT**

AN ACT to amend and reenact subsections 1 and 5 of section 54-06-09 of the North Dakota Century Code, relating to mileage and travel expense reimbursement for state officials and employees.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsections 1 and 5 of section 54-06-09 of the North Dakota Century Code are amended and reenacted as follows:

1. State officials, whether elective or appointive, and their deputies, assistants, and clerks, or other state employees, entitled by law to be reimbursed for mileage or travel expense, must be allowed and paid for mileage and travel expense the following amounts:
  - a. The sum of ~~thirty-seven and one-half~~ ~~forty-five~~ cents per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when the travel is by motor vehicle, the use of which is required by the employing entity. The sum of seventy cents per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when the travel is by private airplane. Mileage by private aircraft must be computed by actual air mileage when only one state employee or official is traveling; if two or more state employees or officials are traveling by private aircraft, the actual mileage must be based on the road mileage between the geographical points. Reimbursement for private airplane travel must be calculated as follows:
    - (1) If reimbursement is for one properly authorized and reimbursable passenger, reimbursement must be paid on a per mile basis as provided in this subsection.
    - (2) If reimbursement is claimed for a chartered private aircraft, reimbursement may not exceed the cost of regular coach fare on a commercial flight, if one is scheduled between the point of departure, point of destination, and return, for each properly authorized and reimbursable passenger on the charter flight; or, where there is no such regularly scheduled commercial flight, the actual cost of the charter.
  - b. Except as provided in subdivision a, when travel is by rail or certificated air taxi commercial operator or other common carrier, including regularly scheduled flights by airlines, the amount actually and necessarily expended therefor in the performance of official duties.

5. Notwithstanding the other provisions of this section, state employees permanently located outside the state or on assignments outside the state for an indefinite period of time, exceeding at least thirty consecutive days, must be allowed and paid ~~thirty-seven and one-half~~ forty-five cents per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when such travel is by motor vehicle, and the three-hundred-mile [482.80-kilometer] restriction imposed by subsection 3 does not apply.

Approved April 23, 2007  
Filed April 24, 2007

**CHAPTER 456****SENATE BILL NO. 2276**

(Senators Wardner, Cook, Robinson)  
(Representatives Aarsvold, Damschen, Price)

**PREVENTION AND ADVISORY COUNCIL DUTIES AND  
APPROPRIATION**

AN ACT to provide duties of the governor's prevention and advisory council; and to provide an appropriation.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. Governor's prevention and advisory council duties - Continuing appropriation.** The governor's prevention and advisory council shall contract with or grant funds to entities within this state to discourage impaired driving and alcohol and drug abuse by minors. The council may accept grants and gifts of any money, property, or service from any public or private source for the purposes of this section. Any funding obtained by the council, not otherwise appropriated, is appropriated on a continuing basis for the purposes of this section. Funding appropriated for the purpose of this section may not be used for costs associated with an initiated measure.

**SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the community health trust fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the governor for the purposes of section 1 of this Act, for the biennium beginning July 1, 2007, and ending June 30, 2009.

Approved May 4, 2007  
Filed May 4, 2007

**CHAPTER 457****HOUSE BILL NO. 1318**

(Representatives Wrangham, Skarphol)  
(Senators Freborg, Robinson, Wardner)

**STATE AUDITOR INFORMATION TECHNOLOGY  
RESPONSIBILITIES**

AN ACT to amend and reenact section 54-10-28 of the North Dakota Century Code, relating to information technology responsibilities of the state auditor.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 54-10-28 of the North Dakota Century Code is amended and reenacted as follows:

**54-10-28. Information technology responsibilities.** The state auditor ~~shall~~ may:

1. Conduct information technology compliance reviews, as determined necessary by the information technology committee, by conducting individual agency audits of information technology management, information technology planning, compliance with information technology plans, and compliance with information technology standards and policies and conducting statewide agency audits of compliance with specific information technology standards and policies.
2. Consult with the information technology department on audits of compliance with information technology plans and compliance with information technology standards and policies.
3. Participate in the information technology department's enterprise architecture process for developing information technology standards and policies.
4. Monitor major information technology projects for compliance with project management and information technology standards and policies.
5. Present results of information technology compliance reviews to the information technology committee and the state information technology advisory committee.

Approved March 5, 2007

Filed March 6, 2007

## CHAPTER 458

### SENATE BILL NO. 2053

(Political Subdivisions Committee)  
(At the request of the State Auditor)

## COMPUTER SYSTEM AUDITS

AN ACT to amend and reenact section 54-10-29 of the North Dakota Century Code, relating to audits of computer systems performed by the state auditor.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 54-10-29 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-10-29. Audits of computer systems - Penalty.**

1. The state auditor may:
  - a. Pursuant to the powers and duties outlined in this chapter, conduct a review and assessment of computer systems and related security systems. Computer systems subject to this section include the computer systems of a state agency or political subdivision that is subject to audit by the state auditor. Tests conducted in connection with this review and assessment may include an assessment of system vulnerability, network penetration, potential security breach, and susceptibility to cyber attack or cyber fraud.
  - b. Disclose any findings to the chief information officer of the state or to any state official or legislative committee. Working papers and preliminary drafts of reports created in connection with the review of computer systems and the security of the systems are exempt from section 44-04-18. Those parts of findings and working papers that identify the methods of the state auditor or that may cause or perpetuate vulnerability of the computer system reviewed are exempt from section 44-04-18 and protected from disclosure until the state auditor directs otherwise.
  - c. Procure the services of a specialist in information security systems or other contractors deemed necessary in conducting a review under this section. The procurement of these services is exempt from the requirements of chapter 54-44.4.
2. An outside contractor hired to provide services in the review of the security of a computer system is subject to the confidentiality provisions of this section and section 44-04-27. Any individual who knowingly discloses confidential information is subject to the provisions of section 12.1-13-01.
3. The state auditor shall notify the executive officer of any state agency ~~or the governing body of any political subdivision~~ of the date, time, and location of any test conducted in connection with a review and assessment of computer systems or related security systems. The

~~executive officer or a deputy executive officer or a member of the governing body of a political subdivision shall the officer's designee may attend and observe any test during which confidential information may be accessed or controlled. An executive officer, a deputy executive officer, or a member of the governing body of a political subdivision receiving notice of any test conducted under this section may not inform any other individual of the scheduling and conduct of the test.~~

4. The state auditor shall notify the attorney general of the date, time, and location of any test conducted in connection with a review and assessment of computer systems or related security systems. The attorney general may designate an individual to participate in the test. The designee of the attorney general may order the test to be terminated if the individual believes a sensitive system is being breached, a sensitive system may be breached, or sensitive information may be revealed.
5. Notwithstanding any provision in chapter 32-12.2 to the contrary, if the attorney general and the director of the office of management and budget determine it is in the best interest of the state, the state auditor may agree to limit the liability of a contractor performing a review and assessment under this section. The liability limitation must be approved by the attorney general and director of the office of management and budget in writing. For any uninsured losses, the director of the office of management and budget may approve the risk management fund to assume all or part of the contractor's liability to the state in excess of the limitation.
6. A state agency receiving federal tax information under section 6103 of the Internal Revenue Code, as amended [26 U.S.C. 6103], in conjunction with the state auditor, may enter a contract with the vendor selected by the state auditor under subdivision c of subsection 1 to conduct a review and assessment of the state agency's computer systems and related security systems, including an assessment of system vulnerability, network penetration, potential security breach, and susceptibility to cyber attack or cyber fraud.

Approved April 26, 2007

Filed April 27, 2007

**CHAPTER 459****HOUSE BILL NO. 1330**

(Representatives Carlisle, DeKrey, Delmore)  
(Senators Grindberg, Lyson, Robinson)

**DRUG TASK FORCE GRANT FUND**

AN ACT to create and enact a new section to chapter 54-12 of the North Dakota Century Code, relating to the attorney general multijurisdictional drug task force grant fund; to amend and reenact sections 53-12.1-09 and 54-12-14 of the North Dakota Century Code, relating to disbursements from the lottery operating fund and the assets forfeiture fund; to provide a continuing appropriation; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

<sup>223</sup> **SECTION 1. AMENDMENT.** Section 53-12.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**53-12.1-09. Operating fund - Continuing appropriation - Authorization of disbursements - Report - Net proceeds.** There is established within the state treasury the lottery operating fund into which must be deposited all revenue from the sale of tickets, interest received on money in the fund, and all other fees and moneys collected, less a prize on a winning ticket or lottery promotion paid by a retailer and the retailer's commission. Except for moneys in the lottery operating fund appropriated by the legislative assembly for administrative and operating costs of the lottery under section 53-12.1-10, all other money in the fund is continuously appropriated for the purposes specified in this section. During each regular session, the attorney general shall present a report to the appropriations committee of each house of the legislative assembly on the actual and estimated expenditures for the current biennium and projected expenditures for the subsequent biennium authorized by this section. A payment of a prize or expense or transfer of net proceeds by the lottery may be made only against the fund or money collected from a retailer on the sale of a ticket. A disbursement from the fund must be for the following purposes:

1. Payment of a prize as the director deems appropriate to the owner of a valid, winning ticket;
2. Payment of a gaming system or related service expense, game group dues, and retailer commissions; and
3. Transfer of net proceeds:
  - a. Starting July 1, 2005, fifty thousand dollars must be transferred to the state treasurer each quarter for deposit in the compulsive gambling prevention and treatment fund;

---

<sup>223</sup> Section 53-12.1-09 was also amended by section 4 of Senate Bill No. 2101, chapter 450.

- b. An amount for the lottery's share of a game's prize reserve pool must be transferred to the multistate lottery association; ~~and~~
- c. Starting July 1, 2007, one hundred five thousand six hundred twenty-five dollars must be transferred to the state treasurer each quarter for deposit in the attorney general multijurisdictional drug task force grant fund; and
- d. The balance of the net proceeds, less holdback of any reserve funds the director may need for continuing operations, must be transferred to the state treasurer on at least an annual basis for deposit in the state general fund.

**SECTION 2.** A new section to chapter 54-12 of the North Dakota Century Code is created and enacted as follows:

**Attorney general multijurisdictional drug task force grant fund - Continuing appropriation.**

- 1. The attorney general may establish a multijurisdictional drug task force grant fund. The fund consists of funds appropriated by the legislative assembly. The funds are appropriated as a standing and continuing appropriation to the attorney general for the purpose of defraying the expenses and operating costs incurred by a multijurisdictional drug task force. The attorney general shall develop guidelines for the qualifications for receipt of grant funds, the disbursement of grant funds, and the necessary accounting procedures for the use of grant funds. In this section, "multijurisdictional drug task force" means a law enforcement task force:
  - a. Organized and created in this state by a written mutual aid or joint powers agreement;
  - b. Comprised of persons who are employed by, or acting under the authority of, different governmental entities, including federal, state, county, or municipal governments, or any combination of these agencies; and
  - c. Operated and established to enhance and facilitate interagency coordination, acquisition of intelligence information, and investigations of controlled substance and other drug-related crimes.
- 2. If the attorney general receives federal funds in excess of the year 2006 level of Byrne grant funding that may be used to defray the expenses and operating costs incurred by a multijurisdictional task force during the 2007-09 biennium, the attorney general may seek emergency commission approval to receive and spend the additional federal funds but may not spend moneys from the funds appropriated by the legislative assembly to the extent of the additional federal funds received for this purpose for the biennium beginning July 1, 2007, and ending June 30, 2009.

**SECTION 3. AMENDMENT.** Section 54-12-14 of the North Dakota Century Code is amended and reenacted as follows:

**54-12-14. Assets forfeiture fund - Created - Purpose - Continuing appropriation.** The attorney general assets forfeiture fund consists of funds appropriated by the legislative assembly and additional funds obtained from moneys, assets, and proceeds seized and forfeited pursuant to section 19-03.1-36, amounts received through court proceedings as restitution, ~~and~~ amounts remaining from the forfeiture of property after the payment of expenses for forfeiture and sale authorized by law, and amounts received from a multijurisdictional drug task force as defined in section 2 of this Act. The amount of deposits into the fund which do not come from legislative appropriation or from a multijurisdictional drug task force and are not payable to another governmental entity may not exceed two hundred thousand dollars within a biennium and any moneys in excess of that amount must be deposited in the general fund. The funds are appropriated, as a standing and continuing appropriation, to the attorney general for the following purposes:

1. For obtaining evidence for enforcement of any state criminal law or law relating to the control of drug abuse.
2. For repayment of rewards to qualified local programs approved under section 12.1-32-02.2, if the information that was reported to the qualified local program substantially contributed to forfeiture of the asset, and for paying, at the discretion of the attorney general, rewards for other information or assistance leading to a forfeiture under section 19-03.1-36.
3. For paying, at the discretion of the attorney general, any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, or sell property seized, detained, or forfeited pursuant to section 19-03.1-36, or of any other necessary expenses incident to the seizure, detention, or forfeiture of such property.
4. For equipping, for law enforcement functions, forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the state board of pharmacy or a law enforcement agency.
5. For paying, at the discretion of the attorney general, overtime compensation to agents of the bureau of criminal investigation and drug enforcement unit incurred as a result of investigations of violations of any state criminal law or law relating to the control of drug abuse.
6. For paying matching funds required to be paid as a condition for receipt of funds from a federal government program awarding monetary grants or assistance for the investigation, apprehension, or prosecution of persons violating the provisions of chapter 19-03.1.

The attorney general shall, with the concurrence of the director of the office of management and budget, establish the necessary accounting procedures for the use of the fund, and shall personally approve, in writing, all requests from the director of the bureau of criminal investigation or the director of the drug enforcement unit for the use of the fund.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 30, 2007  
Filed May 1, 2007

**CHAPTER 460****SENATE BILL NO. 2097**

(Industry, Business and Labor Committee)  
(At the request of the Attorney General)

**FIRE MARSHAL FEES**

AN ACT to amend and reenact sections 7 and 8 of chapter 3 of the 2005 Session Laws, relating to state fire marshal fees; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Sections 7 and 8 of chapter 3 of the 2005 Session Laws are amended and reenacted as follows:

**SECTION 7. FIRE AND TORNADO FUND - FEES.** The attorney general shall charge and collect fees for services provided by the state fire marshal program to entities covered by the fire and tornado fund under chapter 26.1-22. Fees under this section may be collected in amounts of up to a total of ~~\$340,000~~ \$426,920 for the biennium beginning July 1, 2005, and ending June 30, 2007. All fees collected under this section must be deposited in the attorney general's operating fund.

**SECTION 8. PETROLEUM RELEASE COMPENSATION FUND - FEES.** The attorney general shall charge and collect fees for services provided by the state fire marshal program to entities covered by the petroleum release compensation fund under chapter 23-37. Fees under this section may be collected in amounts of up to a total of ~~\$35,000~~ \$42,900 for the biennium beginning July 1, 2005, and ending June 30, 2007. All fees collected under this section must be deposited in the attorney general's operating fund.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 2, 2007  
Filed March 2, 2007

**CHAPTER 461****HOUSE BILL NO. 1503**

(Representatives Charging, Berg, Froelich, Onstad)  
(Senators Marcellais, Warner)

**TRIBAL-STATE GUARANTY PROGRAM EXTENDED**

AN ACT to amend and reenact section 54-17-37 of the North Dakota Century Code, relating to extending the tribal-state guaranty program; to provide an effective date; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 54-17-37 of the North Dakota Century Code is amended and reenacted as follows:

**54-17-37. (Effective through ~~June 30, 2007~~ July 31, 2011) Tribal-state guaranty program - Continuing appropriation.**

1. The industrial commission shall establish at the Bank of North Dakota a guaranty program for a business located in the state which contracts with a business located in the state which is either owned by one of the five North Dakota Indian tribes or which is an American Indian-owned small business located in this state. The industrial commission shall establish program guidelines and shall establish program application forms. The industrial commission shall adopt policies and procedures as necessary to implement this program. The Bank of North Dakota may charge fees to participants in the program. The industrial commission shall limit participation in the program so that the cumulative value of the guaranteed portion of the receivables under the program does not exceed five million dollars at any one time.
2. In the case of a payment dispute, the program must provide a participating North Dakota business with sure and certain payment of receivable owing under the contract between the North Dakota business and the tribal-owned or Indian-owned business. Any litigation over a payment dispute must be conducted by the participating businesses and is not the responsibility of the industrial commission, the Bank of North Dakota, or this guaranty program. The industrial commission shall establish a guaranty reserve board. The board membership, which may not exceed twelve members, consists of the attorney general or the attorney general's representative, who serves as chairman of the board; the president of the Bank of North Dakota or the president's representative; one representative for each participating tribal government; and representatives of private business equal to the number of tribal government representatives serving on the board. Each North Dakota Indian tribe that participates in the program may appoint one board member to serve a two-year term. A tribally appointed member serves at the pleasure of the appointing tribal government. The board members representing private business serve two-year terms to run concurrently with the corresponding tribally appointed member. The members of the industrial commission shall take turns appointing the board members representing private business,

in the following order: governor, attorney general, and agriculture commissioner. Each member representing private business serves at the pleasure of the industrial commission and any vacant position must be filled by an individual appointed by the member of the industrial commission making the original appointment. The board must meet annually, or more often as may be determined necessary by the chairman, for the purpose of reviewing participation in the program and conducting the business of the board.

3. To participate in the program, all parties must agree that for purposes of the program and related business contract issues any claim or dispute between any of the parties are governed by the laws of the state of North Dakota and any claim or dispute between the parties must be brought in Burleigh County district court in Bismarck or by agreement of the parties may be brought to a mutually agreed-upon arbitrator. To participate in the program, the business owned by a North Dakota Indian tribe or the Indian-owned small business must have secured the pledge of a North Dakota Indian tribe or a tribally approved entity to guarantee repayment to the guaranty program for any payments made due to payment disputes. This repayment guarantee must be consistent with the policies and procedures established by the industrial commission to implement this program.
4. If the Bank of North Dakota provides a North Dakota business with a payment due to a payment dispute, as a guarantor the board is an assignee and as such may seek reimbursement from a third party or from the North Dakota business for any payment made under the program.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 10, 2007  
Filed April 11, 2007

**CHAPTER 462****HOUSE BILL NO. 1515**

(Representatives Monson, Porter)  
(Senator Olafson)

**BIOMASS INCENTIVE AND RESEARCH PROGRAM**

AN ACT to create and enact a new section to chapter 20.1-02, a new section to chapter 54-17, and, if Senate Bill No. 2288 of the sixtieth legislative assembly becomes effective, a new section to chapter 54-17 of the North Dakota Century Code, relating to establishment of a private land open to sportsmen biomass demonstration project, the duty of the industrial commission to establish a biomass incentive and research program, and to establish a biomass incentive and research fund; to provide a transfer; and to provide an appropriation.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 20.1-02 of the North Dakota Century Code is created and enacted as follows:

**Private land open to sportsmen program - Biomass demonstration project.** The department may develop and make available, as part of the broader support for establishment cost-share provided through the industrial commission, a special demonstration component of the private land open to sportsmen program to support perennial grass stand establishment of participating acres in return for public access to hunting and adherence to conservation best practices, including postseason harvest, minimum stubble height, and nonannual harvest. The demonstration project may include an evaluation component to assess the effects and compatibility of perennial biomass harvest with the habitat and public access objectives of the private land open to sportsmen program.

**SECTION 2.** If Senate Bill No. 2288 of the sixtieth legislative assembly does not become effective, a new section to chapter 54-17 of the North Dakota Century Code is created and enacted as follows:

**Biomass incentive and research program.** The industrial commission may:

1. Establish an incentive program to assist the agricultural community to demonstrate the production, harvest, storage, and delivery of a biomass feedstock on a commercial scale to a private sector end-user.
2. Establish a project on a scale sufficient to enable at least one group of cooperating agricultural producers, and preferably two groups in different regions of the state, to produce, harvest, store, and deliver biomass feedstock to an end-user at commercial scale.
3. Give priority on a perennial grass feedstock due to the state's resource potential, although residual feedstocks are eligible for consideration.
4. Establish procedures for competitive applications by cooperating agricultural producers organized through a limited liability corporation.

cooperative, or other appropriate ownership structure, that can demonstrate in their application the commitment of a commercial end-user to purchase the biomass produced and adequate technical support to accomplish the biomass production, harvest, storage, and delivery to that end-user.

5. Provide funds for incentives, including producer payments to provide income support during the critical biomass stand establishment period of two years without harvest, in the case of native grasses, or other perennial biomass crops.
6. Ensure that activities enumerated in this section qualify for the agriculture partnership in assisting community expansion program.
7. Arrange for the provision of technical assistance services determined by participating producers in their application to the industrial commission.
8. Provide incentive support targeted to producer entities that successfully apply to the industrial commission rather than the commercial biomass end-user.
9. Provide funds for a front-end engineering and design study for a cellulosic ethanol and nanowiskers project.
10. Work in cooperation with the game and fish department to establish a private land open to sportsmen program biomass demonstration project.

**SECTION 3.** If Senate Bill No. 2288 is approved by the legislative assembly and becomes effective, a new section to chapter 54-17 of the North Dakota Century Code is created and enacted as follows:

**Biomass incentive and research program.** The industrial commission in coordination with the renewable energy council may:

1. Establish an incentive program to assist the agricultural community to demonstrate the production, harvest, storage, and delivery of a biomass feedstock on a commercial scale to a private sector end user.
2. Establish a project on a scale sufficient to enable at least one group of cooperating agricultural producers, and preferably two groups in different regions of the state, to produce, harvest, store, and deliver biomass feedstock to an end user at commercial scale.
3. Give priority on a perennial grass feedstock due to the state's resource potential, although residual feedstocks are eligible for consideration.
4. Establish procedures for competitive applications by cooperating agricultural producers organized through a limited liability corporation, cooperative, or other appropriate ownership structure, that can demonstrate in their application the commitment of a commercial end user to purchase the biomass produced and adequate technical support to accomplish the biomass production, harvest, storage, and delivery to that end user.
5. Provide funds for incentives, including producer payments to provide income support during the critical biomass stand establishment period

of two years without harvest, in the case of native grasses, or other perennial biomass crops.

6. Ensure that activities enumerated in this section qualify for the agriculture partnership in assisting community expansion program.
7. Arrange for the provision of technical assistance services determined by participating producers in their application to the industrial commission.
8. Provide incentive support targeted to producer entities that successfully apply to the industrial commission rather than the commercial biomass end user.
9. Provide funds for a front-end engineering and design study for a cellulosic ethanol and nanowhiskers project.
10. Work in cooperation with the game and fish department to establish a private land open to sportsmen program biomass demonstration project.

**SECTION 4.** A new section to chapter 54-17 of the North Dakota Century Code is created and enacted as follows:

**Biomass incentive and research fund.** The biomass incentive and research fund is a special fund in the state treasury. The industrial commission shall establish the guidelines and procedures for use of the fund. All earnings of the fund must be credited to the fund.

**SECTION 5. TRANSFER - APPROPRIATION.** The industrial commission may transfer up to \$1,000,000 from the beginning farmer revolving loan fund located at the Bank of North Dakota and up to \$1,000,000 from the biofuel partnership in assisting community expansion fund to the biomass incentive and research fund. The funds are appropriated for the biennium beginning July 1, 2007, and ending June 30, 2009.

**SECTION 6. ORGANIC ADVISORY BOARD - GRANT.** The industrial commission may grant up to \$30,000 from the biomass incentive and research fund to the agriculture commissioner to support organic agriculture initiatives and programs during the biennium beginning July 1, 2007, and ending June 30, 2009.

Approved April 27, 2007  
Filed April 30, 2007

**CHAPTER 463****HOUSE BILL NO. 1439**

(Representatives Weiler, S. Meyer, Nelson)  
(Senators Heitkamp, Nelson, Wanzek)

**OIL AND GAS RESEARCH COUNCIL MEMBERSHIP**

AN ACT to amend and reenact subsections 1 and 4 of section 54-17.6-05 of the North Dakota Century Code, relating to the membership of the oil and gas research council.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsections 1 and 4 of section 54-17.6-05 of the North Dakota Century Code are amended and reenacted as follows:

1. The oil and gas research council is composed of ~~seven~~ eight members, four of whom must currently be engaged in and have at least five years of active experience in the oil and natural gas exploration and production industry. The council consists of:
  - a. Four members appointed by the governor from a list provided by the North Dakota petroleum council. The governor may reject the list and request the council to submit a new list until the appointments are made.
  - b. One member appointed by the governor from a list provided by the North Dakota association of oil and gas producing counties. The governor may reject the list and request the association to submit a new list until the appointment is made.
  - c. The executive director of the North Dakota petroleum council, or the executive director's designee.
  - d. The president of the northern alliance of independent producers or the president's designee.
  - e. A county commissioner from an oil producing county appointed by the governor.
  - ~~e.~~ f. The director of the oil and gas division and the state geologist shall serve on the council as advisory nonvoting members.
4. The council shall have at least one regular meeting each year and such additional meetings as the chairman determines necessary at a time and place to be fixed by the chairman. Special meetings must be called by the chairman on written request of any three members. ~~Four~~ Five members constitute a quorum.

Approved March 13, 2007  
Filed March 14, 2007

**CHAPTER 464****HOUSE BILL NO. 1128**

(Government and Veterans Affairs Committee)  
(At the request of the Industrial Commission)

**PIPELINE AUTHORITY**

AN ACT to create and enact chapter 54-17.7 and a new section to chapter 57-06 of the North Dakota Century Code, relating to the North Dakota pipeline authority, to provide for the planning, constructing, owning, financing, maintaining, operating, and disposing of pipeline facilities and related infrastructure, to authorize issuance of revenue bonds, and a tax exemption for pipeline facilities; to amend and reenact subdivision 1 of subsection 2 of section 28-32-01, subsection 5 of section 54-44.4-02, subsection 2 of section 54-60.1-01, and section 57-51.1-07.3 of the North Dakota Century Code, relating to Administrative Agencies Practice Act exemption for the pipeline authority, and procurement, business incentive exception, and deposits to the oil and gas research fund; to provide a continuing appropriation; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subdivision 1 of subsection 2 of section 28-32-01 of the North Dakota Century Code is amended and reenacted as follows:

- I. The industrial commission with respect to the activities of the Bank of North Dakota, North Dakota housing finance agency, public finance authority, North Dakota mill and elevator association, North Dakota farm finance agency, ~~and~~ the North Dakota transmission authority, and the North Dakota pipeline authority.

<sup>224</sup> **SECTION 2.** Chapter 54-17.7 of the North Dakota Century Code is created and enacted as follows:

**54-17.7-01. North Dakota pipeline authority.** There is created the North Dakota pipeline authority, which shall be governed by the industrial commission.

**54-17.7-02. Definitions.** As used in this chapter:

1. "Authority" means the industrial commission acting as the North Dakota pipeline authority.
2. "Commission" means the North Dakota industrial commission.
3. "Energy-related commodities" means any substance, element, or compound, either gaseous, liquid, or solid, associated with the production, refining, or processing of renewable energy, crude oil,

---

<sup>224</sup> Section 54-17.7-08 was amended by section 1 of Senate Bill No. 2077, chapter 565.

natural gas, coal, or coal byproducts, including oil, natural gas liquids, refined petroleum products, carbon dioxide, hydrogen, ethanol, propane, butane, ethane, methane, sulfur, helium, synthetic fuels, nitrogen, biodiesel, and liquids made from coal.

4. "Natural gas" means hydrocarbons or nonhydrocarbons that at atmospheric conditions of temperature and pressure are in a gaseous phase.
5. "Notice of intent" means the notice a person delivers to the authority indicating willingness to construct pipeline facilities contemplated by the authority or to provide services fulfilling the need for such pipeline facilities.
6. "Pipeline facilities" means pipelines, pumps, compressors, storage, and all other facilities, structures and properties incidental and necessary or useful in the transportation, distribution, and delivery of energy-related commodities to points of sale or consumption or to the point or points of distribution for consumption located within and without this state.
7. "Project area" means the geographic area in which construction of a pipeline facility contemplated by the authority is likely to occur.

**54-17.7-03. Pipeline authority purposes.** The authority is created for the purpose of diversifying and expanding the North Dakota economy by facilitating development of pipeline facilities to support the production, transportation, and utilization of North Dakota energy-related commodities, thereby increasing employment, stimulating economic activity, augmenting sources of tax revenue, fostering economic stability, and improving the state's economy.

**54-17.7-04. Powers.** The authority has all powers necessary to carry out the purposes of this chapter, including the power to:

1. Make grants or loans and to provide other forms of financial assistance as necessary or appropriate for the purposes of this chapter.
2. Make and execute contracts and all other instruments necessary or convenient for the performance of the authority's powers and functions.
3. Acquire, purchase, hold, use, lease, license, sell, transfer, and dispose of an undivided or other interest in or the right to capacity in any pipeline system or systems within or without the state of North Dakota in order to facilitate the production, transportation, distribution, or delivery of energy-related commodities produced in North Dakota as a purchaser of last resort. The obligation of the state may not exceed ten percent of the pipeline authority's acquisition or purchase of a right to capacity in any pipeline system or systems and the state's obligation is limited to the funding available from the oil and gas research fund.
4. Borrow money and issue evidences of indebtedness as provided in this chapter.
5. Receive and accept aid, grants, or contributions of money or other things of value from any source, including aid, grants, or contributions from any department, agency, or instrumentality of the United States,

subject to the conditions upon which the aid, grants, or contributions are made and consistent with the provisions of this chapter.

6. Issue and sell evidences of indebtedness in an amount or amounts as the authority may determine, but not to exceed eight hundred million dollars, plus costs of issuance, credit enhancement, and any reserve funds required by agreements with or for the benefit of holders of the evidences of indebtedness for the purposes for which the authority is created under this chapter, provided that the amount of any refinancing shall not be counted toward such eight hundred million dollar limitation to the extent it does not exceed the outstanding amount of the obligations being refinanced.
7. Refund and refinance its evidences of indebtedness.
8. Make and execute interest rate exchange contracts.
9. Enter lease-sale contracts.
10. Pledge any and all revenues derived by the authority under this chapter or from a pipeline facility, service, or activity funded under this chapter to secure payment or redemption of the evidences of indebtedness.
11. To the extent and for the period of time necessary for the accomplishment of the purposes for which the authority was created plan, finance, develop, acquire, own in whole or in part, lease, rent, and dispose of pipeline facilities.
12. Enter contracts to construct, maintain, and operate pipeline facilities.
13. Consult with the public service commission, regional organizations, and any other relevant state or federal authority or persons as necessary and establish reasonable fees, rates, tariffs, or other charges for pipeline facilities and all services rendered by the authority.
14. Lease, rent, and dispose of pipeline facilities owned pursuant to this chapter.
15. Investigate, plan, prioritize, and propose corridors for the transport of energy-related commodities.
16. Make and execute contracts and all other instruments necessary or convenient for the performance of the authority's powers and functions with other state pipeline authorities.
17. Cooperate with and participate in joint projects, research projects, and other activities with other state pipeline authorities and participate in and join regional pipeline organizations.
18. Do any and all things necessary or expedient for the purposes of the authority provided in this chapter.

**54-17.7-05. Authority may act.**

1. Before exercising its powers to construct pipeline facilities granted to it in this chapter except for subsection 3 of section 54-17.7-04, the

authority shall publish in a newspaper of general circulation in North Dakota and in a newspaper in the project area a notice describing the need for pipeline facilities contemplated by the authority. A person willing to construct the pipeline facilities or furnish services to satisfy the needs described in the notice has a period of one hundred eighty days from the date of last publication of the notice within which to delivery to the authority a notice of intent. After receipt of a notice of intent, the authority may not exercise its powers to construct pipeline facilities unless the authority finds that exercising its authority would be in the public interest. In making such a finding, the authority shall consider factors, including economic impact to the state, economic feasibility, technical performance, reliability, past performance, and the likelihood of successful completion and ongoing operation.

2. The authority may require a person giving a notice of intent to provide a bond and to submit a plan for completion of the pipeline facilities or commencement of services within a period of time acceptable to the authority. If no person submits an adequate plan or bond as required by the authority, the authority may proceed with contracting for construction of the facility described in the authority's published notice.

**54-17.7-06. Authority may participate upon request.** The authority may participate in a pipeline facility through financing, planning, joint ownership, or other arrangements at the request of a person giving a notice of intent.

**54-17.7-07. Evidences of indebtedness.**

1. Evidences of indebtedness of the authority must be authorized by resolution of the industrial commission and may be issued in one or more series and must bear such date or dates, mature at such time or times, bear interest at such rate or rates of interest per year, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the state, and be subject to such terms of redemption, with or without premium, as such resolution or resolutions may provide. Evidences of indebtedness of the authority are to mature not more than forty years from the date of issue. Evidences of indebtedness of the authority may be sold at such time or times and at such price or prices as the authority determines.
2. Evidences of indebtedness and grants, loans, or other forms of financial assistance issued by the authority are payable solely from:
  - a. Revenues that may be received by the authority from pipeline facilities, services, or activities funded under this chapter with the proceeds of the authority's evidences of indebtedness, subject only to prior payment of the reasonable and necessary expenses of operating and maintaining such pipeline facilities except depreciation.
  - b. Amounts received by the authority under loans authorized under this chapter.

- c. Revenues received by the authority under this chapter from any source other than general tax revenues.
  3. The evidences of indebtedness are not subject to taxation by the state or any of its political subdivisions and do not constitute a debt of the state of North Dakota within the meaning of any statutory or constitutional provision and must contain a statement to that effect on their face.
  4. The authority may establish and maintain a reserve fund for evidences of indebtedness issued under this chapter. There must be deposited in the reserve fund:
    - a. All moneys appropriated by the legislative assembly to the authority for the purpose of the reserve fund.
    - b. All proceeds of evidences of indebtedness issued under this chapter required to be deposited in the reserve fund by the terms of any contract between the authority and the holders of its evidences of indebtedness or any resolution of the authority.
    - c. Any lawfully available moneys of the authority which it may determine to deposit in the reserve fund.
    - d. Any moneys from any other source made available to the authority for deposit in the reserve fund or any contractual right to the receipt of moneys by the authority for the purpose of the fund, including a letter of credit, surety bond, or similar instrument.
  5. The authority must include in its biennial request to the office of the budget the amount, if any, necessary to restore any reserve fund established under this section to an amount equal to the amount required to be deposited in the fund by the terms of any contract or resolution approved by the commission.
  6. Any pledge of revenue made by the industrial commission as security for the authority's evidences of indebtedness is valid and binding from time to time when the pledge is made. The revenues or other moneys so pledged and thereafter received by the authority are immediately subject to the lien of any such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, regardless of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded except in the records of the authority.
  7. The authority may obtain from any entity of the state, any department or agency of the United States, or any nongovernmental insurer, any insurance, guaranty, or liquidity facility, or from a financial institution, a letter of credit to the extent such insurance, guaranty, liquidity facility, or letter of credit now or hereafter available, as to, or for, the payment or repayment of, interest or principal, or both, or any part thereof, on any evidences of indebtedness issued by the authority pursuant to this chapter, and may enter into any agreement or contract with respect to any such insurance, guaranty, letter of credit, or liquidity facility, and pay

any required fee, unless the same would impair or interfere with the ability of the authority to fulfill the terms of any agreement made with the holders of its evidences of indebtedness.

8. After issuance, all evidences of indebtedness of the authority are conclusively presumed to be fully authorized and issued under the laws of the state, and any person or governmental unit is estopped from questioning their authorization, sale, issuance, execution, or delivery by the authority.
9. When the authority has issued evidences of indebtedness and pledged the revenues of the pipeline facilities for the payment thereof as herein provided, the authority shall operate and maintain the pipeline facilities and shall impose and collect fees and charges for the services furnished by the pipeline facilities, including those furnished to the authority itself, in the amounts and at the rates as are fully sufficient at all times to:
  - a. Pay the expenses of operating and maintaining the pipeline facilities.
  - b. Provide a debt service fund sufficient to assure the prompt payment of principal and interest on the evidences of indebtedness at maturity.
  - c. Provide a reasonable fund for contingencies as may be required by the resolution authorizing the evidences of indebtedness.

**54-17.7-08. Public service commission jurisdiction and consultation.**

1. Until sold or disposed of by the authority, the authority and the pipeline facilities built under this chapter are exempt from the provisions of title 49 except for chapter 49-22 and section 49-02-01.2. Upon sale or disposal by the authority, pipeline facilities built under this chapter are subject to the provisions of title 49.
2. The authority shall consult with the public service commission with respect to the rates charged by the authority for use of its pipeline facilities and such rates must thereafter be considered just and reasonable in proceedings before the public service commission pursuant to section 49-05-06.
3. The authority shall conduct its activities in consultation with pipeline providers, the oil and gas research council, energy-related commodities interests, and other persons having relevant expertise.

**54-17.7-09. Bonds as legal investments.** The bonds of the authority are legal investments which may be used as collateral for public funds of the state, insurance companies, banks, savings and loan associations, credit unions, investment companies, trustees, and other fiduciaries which may properly and legally invest funds in their control or belonging to them in bonds of the authority. The state investment board may invest in bonds of the authority in an amount specified by the state investment board.

**54-17.7-10. Disposal of pipeline facilities.**

1. Before becoming an owner or partial owner of a pipeline facility or acquiring capacity in a pipeline system, the authority shall develop a plan identifying:
  - a. The public purposes of the authority's ownership or capacity acquisition.
  - b. Conditions that would make the authority's ownership no longer necessary for accomplishing those public purposes.
  - c. A plan to divest the authority's ownership or capacity interest as soon as economically prudent once those conditions occur.
2. For pipeline facilities that are leased to another entity by the authority at the end of the lease, absent default by the lessee, the authority shall convey its interest in the pipeline facilities to the lessee.
3. For pipeline facilities that are owned by the authority without a lessee, the authority shall divest itself of ownership as soon as economically prudent in accordance with the divestiture plan developed pursuant to subsection 1.

**54-17.7-11. Pipeline authority administrative fund - Continuing appropriation.** There is created a pipeline authority administrative fund.

1. Revenue to the fund must include:
  - a. Moneys received from the state's oil and gas research council administrative budget.
  - b. Moneys received from any federal agency for the purpose of this section.
  - c. Moneys donated to the pipeline authority for the purposes of this section.
  - d. Moneys received from the state's oil and gas impact fund.
  - e. Such other moneys as may be deposited in the fund for use in carrying out the purposes of the authority.
2. This fund must be maintained as a special fund and all moneys transferred into the fund are appropriated on a continuing basis and must be used and disbursed solely for the purpose of defraying the administrative costs incurred by the pipeline authority.
3. Utilizing funds from the oil and gas research fund, the industrial commission shall contract for or hire staffing necessary to effectively administer the pipeline authority.

**54-17.7-12. Access to authority records.**

1. Materials and data submitted to, or made or received by, the authority, to the extent that the authority determines the materials or data consist of trade secrets or commercial, financial, or proprietary information of individuals or entities applying to or contracting with the authority or receiving authority services under this chapter are subject to section 44-04-18.4.
2. A person or entity must file a request with the authority to have material designated as confidential under subsection 1. The request must contain any information required by the authority, and must include at least:
  - a. A general description of the nature of the information sought to be protected.
  - b. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.
  - c. An explanation of why the information is not readily ascertainable by proper means by other persons.
  - d. A general description of any person or entity that may obtain economic value from disclosure or use of the information and how the person or entity may obtain this value.
  - e. A description of the efforts used to maintain the secrecy of the information.
  - f. The fact that a request has been made is exempt.
3. The information submitted pursuant to subsection 2 is confidential. The authority shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the authority determines the information is either not relevant or not a trade secret, the authority shall notify the requester and the requester may ask for the return of the information and request within ten days of the notice. If no return is sought, the information and request are a public record.

**54-17.7-13. Reporting requirements.** The authority shall deliver a written report on its activities to the legislative council each biennium. The authority is not subject to the requirements of chapter 54-60.1, but to ensure public accountability, the authority shall provide an annual report to the industrial commission detailing activities and expenditures incurred during the preceding year.

<sup>225</sup> **SECTION 3. AMENDMENT.** Subsection 5 of section 54-44.4-02 of the North Dakota Century Code is amended and reenacted as follows:

5. Procurements through a contract or other instrument executed by the industrial commission under ~~chapter~~ chapters 54-17.5, 54-17.6, and 54-17.7.

<sup>226</sup> **SECTION 4. AMENDMENT.** Subsection 2 of section 54-60.1-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Business incentive" means a state or political subdivision direct cash transfer, loan, or equity investment; contribution of property or infrastructure; reduction or deferral of any tax or any fee; guarantee of any payment under any loan, lease, or other obligation; or preferential use of government facilities given to a business. To be considered a business incentive, the total assistance in all forms must be valued at twenty-five thousand dollars or more. Unless specifically provided otherwise, the term does not include:
  - a. Assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, or similar criteria.
  - b. Incentives resulting from Bank of North Dakota programs unless the incentive is a direct interest rate buydown, is made pursuant to the beginning entrepreneur loan guarantee program, or is an investment made pursuant to the North Dakota alternative and venture capital investments and early-stage capital funds program.
  - c. Public improvements to buildings or lands owned by the state or political subdivision which serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made.
  - d. Assistance provided for the sole purpose of renovating old or decaying building stock or bringing such building stock up to code and assistance provided for designated historic preservation districts, provided that the assistance does not exceed seventy-five percent of the total cost.
  - e. Assistance to provide job readiness and training services if the sole purpose of the assistance is to provide those services.
  - f. Assistance for housing.
  - g. Assistance for pollution control or abatement.

---

<sup>225</sup> Section 54-44.4-02 was also amended by section 6 of House Bill No. 1060, chapter 314, section 6 of House Bill No. 1127, chapter 413, and section 7 of Senate Bill No. 2019, chapter 45.

<sup>226</sup> Section 54-60.1-01 was also amended by section 39 of House Bill No. 1018, chapter 18, and section 1 of House Bill No. 1095, chapter 494.

- h. Assistance for energy conservation.
- i. Tax reductions resulting from conformity with federal tax law.
- j. Benefits derived from regulation.
- k. Indirect benefits derived from assistance to educational institutions.
- l. Except for a center of excellence award under chapter 15-69, assistance for a collaboration between a North Dakota institution of higher education and a business.
- m. Redevelopment if the recipient's investment in the purchase of the site and in site preparation is seventy percent or more of the assessor's current year's estimated market value.
- n. General changes in tax increment financing law and other general tax law changes of a principally technical nature.
- o. Federal assistance provided through the state or a political subdivision until the assistance has been repaid to, and reinvested by, the state or political subdivision.
- p. Federal or state assistance for the lignite research, development, and marketing program under chapter 54-17.5.
- q. Federal or state assistance for the oil and gas research, development, and marketing program under chapter 54-17.6.

**SECTION 5.** A new section to chapter 57-06 of the North Dakota Century Code is created and enacted as follows:

**Pipeline authority exemption** Property, not including land, is exempt from taxation during construction and for the first ten full taxable years following initial operation if it consists of a pipeline owned by the authority and constructed after 2006, and necessary associated equipment for the transportation or storage of energy-related commodities if constructed under chapter 54-17.7. Pipeline facilities property described in subsection 6 of section 54-17.7-02 is subject to payments in lieu of property taxes during the time it is exempt from taxation. For the purpose of these payments, pipeline facilities property described in subsection 6 of section 54-17.7-02, whether or not it crosses multiple geographic taxing districts, must be valued annually by the state board of equalization and certified in the manner that other pipeline valuations are certified. The county auditor shall calculate taxes on the pipeline facilities property described in subsection 6 of section 54-17.7-02 in the same manner that taxes are calculated on other pipeline property. Not later than December twenty-sixth of each year, each county auditor shall submit a statement of the amount of taxes that would have been assessed against pipeline facilities property exempted under this section to the state treasurer for payment. The state treasurer shall make the required payment to each county not later than March first of the following year, and the county auditor shall distribute the payments to the political subdivisions in which the exempt pipeline facilities property is located.

**SECTION 6. AMENDMENT.** Section 57-51.1-07.3 of the North Dakota Century Code is amended and reenacted as follows:

**57-51.1-07.3. Oil and gas research fund - Deposits - Continuing appropriation.** There is established a special fund in the state treasury to be known as the oil and gas research fund. ~~In the 2003-05 biennium, the first fifty thousand dollars of revenue from the state's share of the oil and gas production tax and oil extraction tax must be deposited into a special fund known as the oil and gas research fund. In the 2003-05 biennium, if actual revenues for the 2001-03 biennium from the state general fund share of the oil and gas production tax and oil extraction tax exceeded seventy-one million sixty-four thousand dollars, the excess up to five hundred thousand dollars must be deposited in a special fund known as the oil and gas research fund, as provided in this section. After the 2003-05 biennium, two~~ Two percent of the state's share of the oil and gas gross production tax and oil extraction tax revenues ~~that are deposited into the state general fund, up to one~~ three million ~~three hundred thousand~~ dollars per biennium, must be deposited into the oil and gas research fund. The state treasurer shall transfer into the oil and gas research fund two percent of the state's share of the oil and gas production tax and the oil extraction tax revenues ~~that have been deposited into the general fund for the previous three months. All money deposited in the oil and gas research fund is and interest on all such moneys are~~ appropriated as a continuing appropriation to the council to be used for purposes stated in chapter 54-17.6.

**SECTION 7. EMERGENCY.** Sections 1 through 5 of this Act are declared to be an emergency measure.

Approved April 10, 2007  
Filed April 11, 2007

**CHAPTER 465****SENATE BILL NO. 2061**

(Government and Veterans Affairs Committee)  
(At the request of the Superintendent of Public Instruction)

**LIBRARY STATISTICS COMPILATION**

AN ACT to amend and reenact subsection 7 of section 54-24-03 of the North Dakota Century Code, relating to duties of the state librarian to compile statistics on public libraries.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 7 of section 54-24-03 of the North Dakota Century Code is amended and reenacted as follows:

7. Compile statistics on all North Dakota public libraries and their services and their larger counterparts of county and multicounty libraries, regional library cooperatives including multitype library authorities, and of the work done at the state library, and make a full biennial report to the superintendent of public instruction and the governor. The state librarian may not require a private sector library to submit information relating to the provisions of this subsection.

Approved March 5, 2007  
Filed March 6, 2007

**CHAPTER 466****HOUSE BILL NO. 1103**

(Political Subdivisions Committee)

(Representative S. Meyer)

(Senator Anderson)

(At the request of the State Library)

**LIBRARY LEVIES**

AN ACT to create and enact section 54-24.2-02.2 of the North Dakota Century Code, relating to public libraries' maintenance of local effort in order to receive state aid; to repeal section 54-24.2-04 of the North Dakota Century Code, relating to public libraries' maintenance of local effort in order to receive state aid; to provide for application; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** Section 54-24.2-02.2 of the North Dakota Century Code is created and enacted as follows:

**54-24.2-02.2. Maintenance of local effort.**

1. A public library is not eligible to receive funds under this chapter during a fiscal year if the governing body has diminished, from the average of the three preceding fiscal years, the appropriation, in dollars, derived from the mill levy for public library services under section 40-38-02.
2. If the governing body is levying the maximum number of mills it can levy without having an election to increase the mill levy and the appropriation is diminished below the average of the three preceding fiscal years solely because of a reduction in the taxable valuation, then the public library is eligible to receive funds under this chapter.

**SECTION 2. REPEAL.** Section 54-24.2-04 of the North Dakota Century Code is repealed.

**SECTION 3. APPLICATION OF ACT.** This Act applies to distributions of funds for state aid to public libraries made after the effective date of this Act.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 7, 2007

Filed March 8, 2007

**CHAPTER 467****HOUSE BILL NO. 1309**

(Representatives Porter, R. Kelsch, S. Meyer)  
(Senator Cook)

**LIBRARY STATE AID REIMBURSEMENT**

AN ACT to create and enact a new section to chapter 54-24.2 of the North Dakota Century Code, relating to reimbursement for certain public libraries; and to provide an expiration date.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 54-24.2 of the North Dakota Century Code is created and enacted as follows:

**State aid to libraries - Reimbursement.**

1. The state library shall withhold from the amount of state aid to which a public library is entitled during the 2007-09 biennium any amount the public library received in excess of that to which it was entitled during the 2005-07 biennium, as a result of a statutory dispute regarding the meaning of a mill levy.
2. From the amounts withheld under subsection 1, the state library shall provide to each public library that received less than the amount to which it was entitled during the 2005-07 biennium, the difference between the amount the library received during the 2005-07 biennium and the amount that it would have received, but for the statutory dispute regarding the meaning of a mill levy.

**SECTION 2. EXPIRATION DATE.** This Act is effective through June 30, 2009, and after that date is ineffective.

Approved April 11, 2007  
Filed April 13, 2007

**CHAPTER 468****HOUSE BILL NO. 1028**

(Legislative Council)  
(Electric Industry Competition Committee)

**ENERGY DEVELOPMENT AND TRANSMISSION  
COMMITTEE**

AN ACT to amend and reenact section 54-35-18 of the North Dakota Century Code, relating to the energy development and transmission committee; and to provide an expiration date.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

<sup>227</sup> **SECTION 1. AMENDMENT.** Section 54-35-18 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-18. (Effective through August 1, 2007 2011) Electric industry competition - Need for study Energy development and transmission committee.** ~~The legislative council shall study the impact of competition on the generation, transmission, and distribution of electric energy within this state. The legislative assembly finds that the economy of this state depends on the availability of reliable, low-cost electric energy. There is a national trend toward competition in the generation, transmission, and distribution of electric energy and the legislative assembly acknowledges that this competition has both potential benefits and adverse impacts on this state's electric suppliers as well as on their shareholders and customers and the citizens of this state. The legislative assembly determines that it is in the best interests of the citizens of this state to study the effects of competition on the generation, transmission, and distribution of electric energy. The legislative council, during each biennium, shall appoint an energy development and transmission committee in the same manner as the council appoints other interim committees. The council shall appoint six members of the house of representatives, four of whom must be from the majority political party and two of whom must be from the minority political party, and six members of the senate, four of whom must be from the majority political party and two of whom must be from the minority political party. The chairman of the legislative council shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative council interim committees. The committee shall study development of each facet of the energy industry, from the obtaining of the raw natural resource to the sale of the final product in this state, other states, and other countries. The study may include the review of and recommendations relating to policy affecting extraction, generation, processing, transmission, transportation, marketing, distribution, and use of energy.~~

Approved March 7, 2007  
Filed March 8, 2007

---

<sup>227</sup> Section 54-35-18 was also amended by section 4 of House Bill No. 1462, chapter 204.

**CHAPTER 469****HOUSE BILL NO. 1156**

(Representatives Keiser, N. Johnson, Porter)  
(Senators Klein, Stenehjem)

**WORKERS' COMPENSATION REVIEW COMMITTEE  
EXTENDED**

AN ACT to amend and reenact section 54-35-22 of the North Dakota Century Code, relating to the expiration of the workers' compensation review committee.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 54-35-22 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-22. (Effective through July 31, 2007) Workers' compensation review committee.**

1. During each interim, a legislative council interim workers' compensation review committee must be appointed as follows: two members of the senate appointed by the majority leader of the senate of the legislative assembly; one member of the senate appointed by the minority leader of the senate of the legislative assembly; two members of the house of representatives appointed by the majority leader of the house of representatives; and one member of the house of representatives appointed by the minority leader of the house of representatives. The chairman of the legislative council shall designate the chairman of the committee. The committee shall operate according to the laws and procedures governing the operation of other legislative council interim committees. The committee may recommend legislation relating to workers' compensation. The committee shall meet once each calendar quarter or less often if the committee chairman determines a meeting that quarter is not necessary because there are no claims to review.
2. The committee shall review workers' compensation claims that are brought to the committee by injured workers for the purpose of determining whether changes should be made to the laws relating to workers' compensation. A claim may not be reviewed by the committee unless ~~the organization~~ workforce safety and insurance has issued a final determination and either the injured worker has exhausted the administrative and judicial appeals process or the period for appeal has expired. In order for the committee to review a claim, the injured worker must first sign a release of information for constituent authorization to allow the committee and legislative council staff to review the injured worker's workforce safety and insurance records and to allow the committee members and workforce safety and insurance representatives to discuss the records in an interim committee hearing. Notwithstanding any open meeting requirements, except as otherwise provided under this section, the workforce safety and insurance records of an injured worker whose case is reviewed by the committee are confidential. However, pursuant to the constituent's authorization,

information contained in the records may be discussed by the committee members and workforce safety and insurance representatives in an interim committee hearing.

3. The committee shall accept testimony of an injured worker and of a representative designated by the injured worker. After the committee has received the testimony of the injured worker and the injured worker's representative, the committee shall request that ~~the organization~~ workforce safety and insurance provide testimony.

Approved March 15, 2007  
Filed March 15, 2007

**CHAPTER 470****SENATE BILL NO. 2402**

(Senators Marcellais, Heckaman, Warner)  
(Representatives Boucher, Charging)

**TRIBAL AND STATE RELATIONS COMMITTEE  
EXTENDED**

AN ACT to amend and reenact section 54-35-23 of the North Dakota Century Code, relating to extension of the committee on tribal and state relations; and to provide an effective date.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 54-35-23 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-23. (Effective through July 31, 2007 2009) Committee on tribal and state relations - Membership - Duties.**

1. The committee on tribal and state relations is composed of seven members as follows:
  - a. The chairman of the legislative council or the chairman's designee;
  - b. Three members of the house of representatives, two of whom must be selected by the leader representing the majority faction of the house of representatives and one of whom must be selected by the leader representing the minority faction of the house of representatives; and
  - c. Three members of the senate, two of whom must be selected by the leader representing the majority faction of the senate and one of whom must be selected by the leader representing the minority faction of the senate.
2. The chairman of the legislative council, or the chairman's designee, shall serve as chairman of the committee.
3. The committee shall meet at such times and places as determined by the chairman. The legislative council shall provide staffing for the committee.
4. The committee shall conduct joint meetings with the native American tribal citizens' task force to study tribal-state issues, including government-to-government relations, the delivery of services, case management services, child support enforcement, and issues related to the promotion of economic development. After the joint meetings have concluded, the committee shall meet to prepare a report on its findings and recommendations, together with any legislation required to implement those recommendations, to the legislative council.

5. The members of the committee are entitled to compensation from the legislative council for attendance at committee meetings at the rate provided for members of the legislative assembly for attendance at interim committee meetings and are entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers.
6.
  - a. The native American tribal citizens' task force is composed of six members as follows:
    - a- (1) The executive director of the Indian affairs commission, or the executive director's designee;
    - b- (2) The chairman of the Standing Rock Sioux Tribe, or the chairman's designee;
    - c- (3) The chairman of the Spirit Lake Tribe, or the chairman's designee;
    - d- (4) The chairman of the Three Affiliated Tribes, or the chairman's designee;
    - e- (5) The chairman of the Turtle Mountain Band of Chippewa Indians, or the chairman's designee; and
    - f- (6) The chairman of the Sisseton-Wahpeton Sioux Tribe, or the chairman's designee.
  - b. If the executive director of the Indian affairs commission or any of the tribal chairmen appoint a designee to serve on the task force, only one individual may serve as that designee during the biennium. A substitute designee may be appointed by the executive director of the Indian affairs commission or a tribal chairman in the event of the death, incapacity, resignation, or refusal to serve of the initial designee.

Approved May 4, 2007  
Filed May 4, 2007

**CHAPTER 471****HOUSE BILL NO. 1213**

(Representative DeKrey)

**BANKRUPTCY EXEMPTIONS STUDY**

AN ACT to provide for a legislative council study of state bankruptcy exemptions.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. LEGISLATIVE COUNCIL STUDY - BANKRUPTCY EXEMPTIONS.** The legislative council shall consider studying, during the 2007-08 interim, the current state exemptions for bankruptcy and the desirability of updating these exemptions. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

Approved March 9, 2007

Filed March 12, 2007

**CHAPTER 472****HOUSE BILL NO. 1387**

(Representatives Bellew, Wieland)

**COURT FACILITIES LEASING STUDY**

AN ACT to provide for a legislative council study of the leasing of court facilities.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. LEGISLATIVE COUNCIL STUDY OF LEASING OF COURT FACILITIES.** The legislative council shall consider studying, during the 2007-08 interim, the leasing or renting of facilities for the use by district courts from counties or other political subdivisions, including the feasibility and desirability of counties retaining a portion of the fees collected by the counties in lieu of leasing or renting by the state. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

Approved March 5, 2007

Filed March 6, 2007

**CHAPTER 473****HOUSE BILL NO. 1456**

(Representatives Nelson, Gulleson, Kretschmar)  
(Senators Horne, Klein)

**WIND FARM SITING AND DECOMMISSIONING STUDY**

AN ACT to provide for a legislative council study of wind farm siting and decommissioning.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. LEGISLATIVE COUNCIL - WIND FARM SITING AND DECOMMISSIONING STUDY.** During the 2007-08 interim, the legislative council shall study the siting and decommissioning of commercial wind farms. The study must include identification of key issues of public and industry concern; solicitation of public input from local government officials, electric utilities, the wind industry, landowners, farm organizations, and other concerned interests; review of the laws and policies of other jurisdictions; recommendations concerning laws or policies needed in this state to address wind farm siting and reclamation of wind farm sites; and the decommissioning of wind farm sites. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

Approved April 12, 2007  
Filed April 13, 2007

**CHAPTER 474****HOUSE BILL NO. 1479**

(Representatives Koppelman, Boehning, S. Meyer, Thoreson)  
(Senators Freborg, Klein)

**ADMINISTRATIVE AGENCIES PRACTICE ACT  
EXEMPTIONS STUDY**

AN ACT to provide for a legislative council study of agency exemptions from the Administrative Agencies Practice Act.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. LEGISLATIVE COUNCIL STUDY - ADMINISTRATIVE AGENCIES PRACTICE ACT EXEMPTION.** The legislative council shall consider studying, during the 2007-08 interim, the appropriateness of each agency exemption from the Administrative Agencies Practice Act. The study should include discussion and analysis of each exemption, and a presentation by each agency entitled to an exemption, under the Administrative Agencies Practice Act. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

Approved March 23, 2007  
Filed March 23, 2007

**CHAPTER 475****SENATE BILL NO. 2139**

(Senators Flakoll, Taylor, Wanzek)  
(Representatives D. Johnson, Kingsbury, Mueller)

**AGRICULTURE LAWS STUDY**

AN ACT to require the legislative council to study laws relating to agriculture.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:****SECTION 1. LEGISLATIVE COUNCIL STUDY - AGRICULTURE LAWS.**

The legislative council shall study during the 2007-08 interim, the provisions of the North Dakota Century Code which relate to agriculture for the purpose of eliminating provisions that are irrelevant or duplicative, clarifying provisions that are inconsistent or unclear in their intent and direction, and rearranging provisions in a logical order. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

Approved April 12, 2007

Filed April 13, 2007

**CHAPTER 476****HOUSE BILL NO. 1098**

(Government and Veterans Affairs Committee)  
(At the request of the Indian Affairs Commission)

**INDIAN AFFAIRS COMMISSION MEMBERSHIP**

AN ACT to amend and reenact section 54-36-01 of the North Dakota Century Code, relating to the membership of the Indian affairs commission.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 54-36-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-36-01. Commission - Members - Officers - Expenses of members.**

The North Dakota Indian affairs commission consists of the governor, ~~four~~ three members appointed by the governor from the state at large, ~~three~~ two of whom must be of Indian descent, must be enrolled members of a tribe, and must be current voting residents of the state of North Dakota, and the ~~chairpersons of the Standing Rock, Fort Berthold, Fort Totten, and Turtle Mountain Indian Reservations or in the absence of the chairperson, the vice chairperson, or the chairperson's designee, of the Standing Rock Sioux Tribe; the Spirit Lake Tribe; the Three Affiliated Tribes of the Fort Berthold Reservation; the Turtle Mountain Band of Chippewa Indians; and the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation.~~ The governor is the chairperson of the commission. The commission shall meet quarterly or as otherwise agreed. Members of the commission or the ~~vice chairperson chairperson's designee~~ are entitled to receive mileage and expenses for attending each meeting as are allowed other state officers.

Approved March 5, 2007

Filed March 6, 2007

**CHAPTER 477****HOUSE BILL NO. 1031**

(Legislative Council)  
(Higher Education Committee)

**UNIVERSITY SYSTEM BLOCK GRANT  
APPROPRIATIONS**

AN ACT to amend and reenact sections 54-44.1-04 and 54-44.1-06 of the North Dakota Century Code, relating to budget requests and block grant appropriations for the North Dakota university system; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 54-44.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.1-04. (Effective through June 30, 2007 2009) Budget estimates of budget units filed with the office of the budget - Deadline.** The head of each budget unit, not later than July fifteenth of each year next preceding the session of the legislative assembly, shall submit to the office of the budget, estimates of financial requirements of the person's budget unit for the next two fiscal years, on the forms and in the manner prescribed by the office of the budget, with such explanatory data as is required by the office of the budget and such additional data as the head of the budget unit wishes to submit. The budget estimates for the North Dakota university system must include block grants for the university system for a base funding component and for an initiative funding component for specific strategies or initiatives and a budget estimate for an asset funding component for renewal and replacement of physical plant assets at the institutions of higher education. The estimates so submitted must bear the approval of the board or commission of each budget unit for which a board or commission is constituted. The director of the budget in the director's discretion may extend the filing date for any budget unit if the director finds there is some circumstance that makes it advantageous to authorize the extension. If a budget unit has not submitted its estimate of financial requirements by the required date or within a period of extension set by the director of the budget, the director of the budget shall prepare the budget unit's estimate of financial requirements except the estimate may not exceed ninety percent of the budget unit's previous biennial appropriation. The director of the budget or a subordinate officer as the director designates shall examine the estimates and shall afford to the heads of budget units reasonable opportunity for explanation in regard thereto and, when requested, shall grant to the heads of budget units a hearing thereon which must be open to the public.

**(Effective after June 30, 2007 2009) Budget estimates of budget units filed with the office of the budget - Deadline.** The head of each budget unit, not later than July fifteenth of each year next preceding the session of the legislative assembly, shall submit to the office of the budget, estimates of financial requirements of the person's budget unit for the next two fiscal years, on the forms and in the manner prescribed by the office of the budget, with such explanatory data as is required by the office of the budget and such additional data as the head of the budget unit wishes to submit. The estimates so submitted must bear the approval of

the board or commission of each budget unit for which a board or commission is constituted. The director of the budget may extend the filing date for any budget unit if the director finds there is some circumstance that makes it advantageous to authorize the extension. If a budget unit has not submitted its estimate of financial requirements by the required date or within a period of extension set by the director of the budget, the director of the budget shall prepare the budget unit's estimate of financial requirements except the estimate may not exceed ninety percent of the budget unit's previous biennial appropriation. The director of the budget or a subordinate officer as the director shall designate shall examine the estimates and shall afford to the heads of budget units reasonable opportunity for explanation in regard thereto and, when requested, shall grant to the heads of budget units a hearing thereon which must be open to the public.

**SECTION 2. AMENDMENT.** Section 54-44.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.1-06. (Effective through June 30, 2007 2009) Preparation of the budget data - Contents.** The director of the budget, through the office of the budget, shall prepare budget data which must contain and include the following:

1. Summary statements of the financial condition of the state, accompanied by the detailed schedules of assets and liabilities as the director of the budget determines desirable, which must include the following:
  - a. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and
  - b. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

Summary statements may include a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium.

2. Statements of actual revenue for the previous biennium, the first year of the present biennium, and the estimated revenue of the current fiscal year and of the next biennium, and a statement of unappropriated surplus expected to have accrued in the state treasury at the beginning of the next fiscal year. The statement of unappropriated surplus for the general fund must reflect any projected deficiency appropriations relating to expenditures from the general fund for the present biennium. The statements of revenue and estimated revenue must be classified by sources and by budget unit collecting them. Existing sources of revenue must be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue must be explained.
3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.

4. Detailed comparative statements of expenditures and requests for appropriations by funds, budget units and classification of expenditures, showing the expenditures for the previous biennium, the first fiscal year of the present biennium, the budget of the current biennium, and the governor's recommendation for appropriations for each budget unit for the next biennium, all distributed according to the prescribed classification of expenditures. Following the lists of actual and proposed expenditures of each budget unit there must be a brief explanation of the functions of the unit and comments on its policies and plans and on any considerable differences among the amounts recommended, with any descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as may be considered necessary or desirable. For capital outlay expenditures involving construction projects to be completed in two or more fiscal years, there must be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs may be projected for at least two years beyond the period covered by the budget.
5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.
6. A summary statement of the unappropriated fund balance estimated to be available at the beginning of the next biennium, and the estimated revenue of the next biennium, as compared with the total recommended amounts of appropriation for all classes of expenditures for the next biennium, and if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of any proposed additional revenue.
7. Drafts of proposed general and special appropriations acts embodying the budget data and recommendations of the governor for appropriations for the next biennium and drafts of such revenues and other acts recommended by the governor for putting into effect the proposed financial plan. The recommended general appropriation for each budget unit must be specified in a separate section of the general appropriations act. The draft of the proposed appropriations act for the North Dakota university system must include block grants for a base funding appropriation and for an initiative funding appropriation for specific strategies or initiatives and an appropriation for asset funding for renewal and replacement of physical plant assets at the institutions of higher education.
8. A list of every individual asset or service, excluding real estate, with a value of at least fifty thousand dollars and every group of assets and services comprising a single system with a combined value of at least fifty thousand dollars acquired through a capital or operating lease arrangement or debt financing arrangement by a state agency or institution. The list must include assets or services acquired in the

current biennium and anticipated assets or services to be acquired in the next biennium.

9. Any other information as the director of the budget determines desirable or as is required by law.

**(Effective after June 30, 2007 2009) Preparation of the budget data -**

**Contents.** The director of the budget, through the office of the budget, shall prepare budget data which must contain and include the following:

1. Summary statements of the financial condition of the state, accompanied by the detailed schedules of assets and liabilities as the director of the budget determines desirable, which must include the following:
  - a. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and
  - b. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

Summary statements may include a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium.

2. Statements of actual revenue for the previous biennium, the first year of the present biennium, and the estimated revenue of the current fiscal year and of the next biennium, and a statement of unappropriated surplus expected to have accrued in the state treasury at the beginning of the next fiscal year. The statement of unappropriated surplus for the general fund must reflect any projected deficiency appropriations relating to expenditures from the general fund for the present biennium. The statements of revenue and estimated revenue must be classified by sources and by budget unit collecting them. Existing sources of revenue must be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue must be explained.
3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.
4. Detailed comparative statements of expenditures and requests for appropriations by funds, budget units and classification of expenditures, showing the expenditures for the previous biennium, the first fiscal year of the present biennium, the budget of the current biennium, and the governor's recommendation for appropriations for each budget unit for the next biennium, all distributed according to the prescribed classification of expenditures. Following the lists of actual and proposed expenditures of each budget unit there must be a brief explanation of the functions of the unit and comments on its policies and plans and on

any considerable differences among the amounts recommended, with any descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as may be considered necessary or desirable. For capital outlay expenditures involving construction projects to be completed in two or more fiscal years, there must be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs may be projected for at least two years beyond the period covered by the budget.

5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.
6. A summary statement of the unappropriated fund balance estimated to be available at the beginning of the next biennium, and the estimated revenue of the next biennium, as compared with the total recommended amounts of appropriation for all classes of expenditures for the next biennium, and if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of any proposed additional revenue.
7. Drafts of a proposed general appropriations act and special appropriations acts embodying the budget data and recommendations of the governor for appropriations for the next biennium and drafts of such revenues and other acts recommended by the governor for putting into effect the proposed financial plan. The recommended general appropriation for each budget unit must be specified in a separate section of the general appropriations act.
8. A list of every individual asset or service, excluding real estate, with a value of at least fifty thousand dollars and every group of assets and services comprising a single system with a combined value of at least fifty thousand dollars acquired through a capital or operating lease arrangement or debt financing arrangement by a state agency or institution. The list must include assets or services acquired in the current biennium and anticipated assets or services to be acquired in the next biennium.
9. Any other information as the director of the budget determines desirable or as is required by law.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 7, 2007

Filed March 8, 2007

**CHAPTER 478****HOUSE BILL NO. 1032**

(Legislative Council)  
(Higher Education Committee)

**UNIVERSITY SYSTEM UNEXPENDED  
APPROPRIATION CANCELLATION**

AN ACT to amend and reenact section 54-44.1-11 of the North Dakota Century Code, relating to the cancellation of unexpended appropriations for the North Dakota university system; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 54-44.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.1-11. (Effective through June 30, ~~2007~~ 2009) Office of management and budget to cancel unexpended appropriations - When they may continue.** Except as otherwise provided by law, the office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations after the expiration of the biennial period during which they became available under the law. Unexpended appropriations for the state historical society are not subject to this section and the state historical society shall report on the amounts and uses of funds carried over from one biennium to the appropriations committees of the next subsequent legislative assembly. Unexpended appropriations for the North Dakota university system are not subject to this section and the North Dakota university system shall report on the amounts and uses of funds carried over from one biennium to the next to subsequent appropriations committees of the legislative assembly. The chairmen of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase if the total purchase price is within the authorized appropriation.
5. Purchases by the department of transportation of roadway maintenance equipment costing more than ten thousand dollars per unit if the equipment was ordered during the first twenty-one months of the biennium in which the funds were appropriated.

6. Authorized ongoing information technology projects.

**(Effective after June 30, 2007 2009) Office of management and budget to cancel unexpended appropriations - When they may continue.** The office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations after the expiration of the biennial period during which they became available under the law. Unexpended appropriations for the state historical society are not subject to this section and the state historical society shall report on the amounts and uses of funds carried over from one biennium to the appropriations committees of the next subsequent legislative assembly. The chairmen of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase if the total purchase price is within the authorized appropriation.
5. Purchases by the department of transportation of roadway maintenance equipment costing more than ten thousand dollars per unit if the equipment was ordered during the first twenty-one months of the biennium in which the funds were appropriated.
6. Authorized ongoing information technology projects.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 7, 2007

Filed March 8, 2007

**CHAPTER 479****SENATE BILL NO. 2321**

(Senators Mathern, Hacker, J. Lee)  
(Representatives Wieland, N. Johnson, Conrad)

**MERIT SYSTEM EXEMPTIONS**

AN ACT to create and enact two new sections to chapter 54-44.3 of the North Dakota Century Code, relating to authorizing political subdivisions to request an exemption from coverage under the state merit system.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** Two new sections to chapter 54-44.3 of the North Dakota Century Code are created and enacted as follows:

**Political subdivision may request to be exempted from state merit system.** A political subdivision subject to the merit system under this chapter may file a request with the division and the director of the department of human services to be exempted from the merit system. The request must describe a plan and policy that assures the political subdivision has developed a merit system plan that meets federal standards for personnel administration. The division and the director of the department of human services shall authorize the political subdivision plan within sixty days of receiving a request under this section if the plan and policies meet federal requirements. If the division and the director of the department of human services determine that the proposed plan and policies fail to meet the federal requirements, the division and the director shall deny the request and notify the requester of the specific reasons for the denial.

**Political subdivision merit system compliance.** The division and the department of human services shall develop oversight and audit procedures for political subdivision merit systems to assure compliance with federal merit system principles. If the division and the department of human services determine that a political subdivision has failed to maintain compliance with federal merit system principles, the division and the department shall notify the political subdivision of the noncompliance and order the political subdivision to take corrective action. If a political subdivision does not take the necessary corrective action to comply with federal merit system principles, the division and the department of human services shall revoke the political subdivision's exemption from the state merit system and return the political subdivision to the state merit system. The political subdivision is responsible for any penalty assessed by a federal authority for a noncompliant political subdivision merit system.

Approved April 5, 2007

Filed April 5, 2007

**CHAPTER 480****HOUSE BILL NO. 1102**

(Government and Veterans Affairs Committee)  
(At the request of the Adjutant General)

**ARCHITECT AND ENGINEER FEES**

AN ACT to amend and reenact section 54-44.7-04 of the North Dakota Century Code, relating to fees authorized by state agencies for architect, engineer, construction management, or land surveying services.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 54-44.7-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.7-04. Exception.**

1. All state agencies securing architect, engineer, construction management, or land surveying services for projects for which the fees are estimated not to exceed ~~ten~~ twenty-five thousand dollars may employ the architects, engineers, construction managers, and land surveyors by direct negotiation and selection, taking into account all of the following:
  - a. The nature of the project.
  - b. The proximity of the architect, engineer, construction management, or land surveying services to the project.
  - c. The capability of the architect, engineer, construction manager, or land surveyor to produce the required services within a reasonable time.
  - d. Past performance.
  - e. Ability to meet project budget requirements.

This procedure shall still follow state policy set forth above.

2. Fees paid pursuant to this section during the twelve-month period immediately preceding negotiation of the contract by any single state agency for professional services performed by any one architectural, engineering, or land surveying person or firm may not exceed ~~twenty~~ fifty thousand dollars. All persons or firms seeking to render professional services pursuant to this section shall furnish the state agency with which the firm is negotiating a list of professional services, including the fees paid, performed for the state agency during the twelve months immediately preceding the contract being negotiated.

Approved March 13, 2007  
Filed March 14, 2007

**CHAPTER 481****HOUSE BILL NO. 1483**

(Representatives Gulleson, Ekstrom, Mueller, Hawken)  
(Senators Erbele, Tallackson)

**ENVIRONMENTALLY PREFERABLE PRODUCT  
PROCUREMENT**

AN ACT to amend and reenact section 54-44.4-07 of the North Dakota Century Code, relating to procurement of environmentally preferable products; and to provide an effective date.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 54-44.4-07 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.4-07. ~~Specification for paper products and inks~~ Procurement of environmentally preferable products.**

1. The office of management and budget, the institutions of higher education, and any other state agency or institution that has authority to purchase products; are encouraged, ~~whenever possible when to~~ purchase environmentally preferable products.
  - a. Where practicable, specifications for purchasing newsprint printing services; ~~to~~ should specify the use of soybean-based ink. The North Dakota soybean council and the agriculture commissioner shall assist the office of management and budget in locating suppliers of soybean-based inks and in collecting data on the purchase of soybean-based inks.
  - b. In requesting bids for paper products, the office of management and budget must request information on the recycled content of such products.
  - c. Where practicable, biobased products should be specified.
2. The office of management and budget, in coordination with the state board of higher education, shall develop guidelines for a biobased procurement program.

**SECTION 2. EFFECTIVE DATE.** This Act becomes effective on July 1, 2008.

Approved April 9, 2007  
Filed April 10, 2007

**CHAPTER 482****SENATE BILL NO. 2048**

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System Board)

**PERS ADMINISTRATION**

AN ACT to create and enact a new subsection to section 39-03.1-28 and a new subsection to section 54-52-26 of the North Dakota Century Code, relating to confidentiality of retirement records; and to amend and reenact subsections 7 and 8 of section 39-03.1-08.2, subsections 2 and 5 of section 39-03.1-11, sections 39-03.1-11.2, 39-03.1-30, and 54-52-02.9, subsections 2 and 5 of section 54-52-17, subsections 1, 4, 5, and 6 of section 54-52-17.4, sections 54-52-27, 54-52-28, 54-52-29, 54-52.6-09.2, and 54-52.6-10, and subsection 4 of section 54-52.6-13 of the North Dakota Century Code, relating to terms, final average salary calculations, payment of delayed retirement benefits, conversion of sick leave, temporary employee purchase of service credit, compliance with the Internal Revenue Code, employer service credit purchase, automatic refund of account balances, and vesting under the highway patrolmen's retirement and public employees retirement systems.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsections 7 and 8 of section 39-03.1-08.2 of the North Dakota Century Code are amended and reenacted as follows:

7. In addition to service credit identified in this section, a ~~member~~ contributor may purchase up to five years of service credit.
8. Pursuant to rules adopted by the board, the board may allow a ~~member~~ contributor to purchase service credit with either pretax or aftertax moneys, at the board's discretion. If a ~~member~~ contributor elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 2 of section 39-03.1-09 apply to the purchase arrangement.

**SECTION 2. AMENDMENT.** Subsections 2 and 5 of section 39-03.1-11 of the North Dakota Century Code are amended and reenacted as follows:

2. Retirement benefits are based on the contributor's final average salary. Final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred twenty months of employment. For contributors who ~~retire~~ terminate employment on or after July 4, 2009 August 1, 2010, final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred eighty months of employment. For contributors who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the board has appropriate and accurate salary records on its electronic data base, but that period may not be more than the last one hundred eighty

months of employment. Months not employed or months in which employment was not as a permanent employee are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the contributor has worked for less than thirty-six months at the postponed retirement date, the final average salary is the average salary for all months of employment.

5. On termination of employment after completing ten years of eligible employment but before the normal retirement date, a contributor who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits. The deferred benefits are payable beginning on the contributor's normal retirement date ~~and are one hundred percent of the contributor's normal retirement benefits in one of the forms provided in this section.~~ Contributors who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments. The final average salary used for calculating deferred vested retirement benefits must be increased annually, from the later of the date of termination of employment or July 1, 1991, until the date the contributor begins to receive retirement benefits from the fund, at a rate as determined by the board not to exceed a rate that would be approximately equal to annual salary increases provided state employees pursuant to action by the legislative assembly.

**SECTION 3. AMENDMENT.** Section 39-03.1-11.2 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-11.2. Internal Revenue Code compliance.** The board shall administer the plan in compliance with section 415, section 401(a)(9), section 401(a)(17), and section 401(a)(31) of the Internal Revenue Code in effect on August 1, ~~2005~~ 2007, as it applies for governmental plans.

**SECTION 4.** A new subsection to section 39-03.1-28 of the North Dakota Century Code is created and enacted as follows:

A person if the information relates to an employer service purchase under section 39-03.1-10.2, but the information must be limited to the member's name and employer, the retirement program in which the member participates, the amount of service credit purchased by the employer, and the total amount expended by the employer for that service credit purchase, and that information may only be obtained from the member's employer.

**SECTION 5. AMENDMENT.** Section 39-03.1-30 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-30. Conversion of sick leave.** ~~At termination of eligible employment a~~ A member is entitled to credit in the retirement system for each month of unused sick leave, as certified by the employer, if the member or the member's employer pays an amount equal to the member's final average salary, times the number of months of sick leave converted, times the employer and employee contribution, plus the required contribution for the retiree health benefits program. Hours of sick leave equal to a fraction of a month are deemed to be a full month for

purposes of conversion to service credit. A member may convert all of the member's certified sick leave or a part of that person's certified sick leave. ~~All conversion payments must be made within sixty days of termination and before the member receives a retirement annuity unless the member has submitted an approved payment plan to the board.~~

**SECTION 6. AMENDMENT.** Section 54-52-02.9 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.9. Participation by temporary employees.** A temporary employee may elect, within one hundred eighty days of beginning employment, to participate in the public employees retirement system and receive credit for service after enrollment. The temporary employee shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The temporary employee shall also pay monthly to the retiree health benefit fund established under section 54-52.1-03.2 one percent times the temporary employee's present monthly salary. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee in the public employees retirement system until termination of employment or reclassification of the temporary employee as a permanent employee. A temporary employee may not purchase any additional credit, including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

**SECTION 7. AMENDMENT.** Subsections 2 and 5 of section 54-52-17 of the North Dakota Century Code are amended and reenacted as follows:

2. Retirement benefits are calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment. For members who ~~retire~~ terminate employment on or after July 4, 2009 August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred eighty months of employment. For members who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the board has appropriate and accurate salary records on its electronic data base, but that period may not be more than the last one hundred eighty months of employment. Months not employed are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the participating member has worked for less than thirty-six months at the normal retirement date, the final average salary is the average salary for the total months of employment.
5. Upon termination of employment after completing three years of eligible employment, except for supreme and district court judges, who must complete five years of eligible employment, but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date ~~equal to one hundred percent of the member's accrued single life benefits in one of the optional forms provided in subsection 9.~~ Members who have delayed or inadvertently failed to apply for retirement benefits to

commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments.

**SECTION 8. AMENDMENT.** Subsections 1, 4, 5, and 6 of section 54-52-17.4 of the North Dakota Century Code are amended and reenacted as follows:

1. A participating member may elect to purchase credit for years of service and prior service for which the participating member is not presently receiving credit. A participating member is entitled to purchase additional credit under this section for the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:
  - a. Active prior employment in the armed forces of the United States, except as provided in section 54-52-17.14, for up to four years of credit.
  - b. Employment as a permanent employee by a public employer either within or outside the state of North Dakota.
  - c. Employment as a permanent employee by a political subdivision participating in the public employees retirement system which did not pay the cost of past service benefits under section 54-52-02.1.
  - d. Service the participating member did not elect to repurchase upon reemployment under section 54-52-02.6.
  - e. Service of an eligible employee, who exercised the privilege to withdraw from the predecessor plan to the public employees retirement system under subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of the 1977 Session Laws.
  - f. Employment as a permanent employee by the federal government.
4. The participating member may purchase credit under this section, or the participating member's employer may purchase for the participating member, by paying to the board an amount equal to the actuarial cost to the fund of providing the credit. If the participating member purchases credit pursuant to subdivision d of subsection 1, the participating member must pay to the board an amount equal to the greater of the actuarial cost to the fund of providing the credit, or the amount the participating member received upon taking a refund of the participating member's account balance, plus interest at the actuarial rate of return from the time the participating member was issued the refund. If the participating member is not repurchasing all of the credit originally refunded, the participating member must pay a pro rata amount of the refunded amount determined by dividing the refunded amount by the number of months of credit refunded, multiplying that amount times the number of months of credit the participating member seeks to repurchase, and adding interest at the actuarial rate of return. The participating member or the participating member's employer shall also pay to the retiree health benefits fund established under section 54-52.1-03.2 an amount equal to the actuarial cost to that fund for the

additional credit. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. The board shall adopt rules governing the purchase of additional credit under this section.

5. Pursuant to rules adopted by the board, the board may allow a participating member to purchase service credit with either pretax or aftertax moneys, at the board's discretion. If the participating member elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 3 of section 54-52-05 apply to the purchase arrangement.
6. In addition to service credit identified in this section, a vested participating member may purchase up to five years of service credit unrelated to any other eligible service.

**SECTION 9.** A new subsection to section 54-52-26 of the North Dakota Century Code is created and enacted as follows:

A person if the information relates to an employer service purchase, but the information must be limited to the member's name and employer, the retirement program in which the member participates, the amount of service credit purchased by the employer, and the total amount expended by the employer for that service credit purchase, and that information may only be obtained from the member's employer.

**SECTION 10. AMENDMENT.** Section 54-52-27 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-27. Purchase of sick leave credit.** ~~At termination of eligible employment a~~ A member is entitled to credit in the retirement system for each month of unused sick leave, as certified by the member's employer, if the member or the member's employer pays an amount equal to the member's final average salary, times the number of months of sick leave converted, times the percent of employer and employee contributions to the retirement program of the member, plus one percent for the retiree health benefits program. Hours of sick leave equal to a fraction of a month are deemed to be a full month for purposes of conversion to service credit. A member may convert all of the member's certified sick leave or a part of the member's certified sick leave. ~~All conversion payments must be made within sixty days of termination of employment and before the member receives a retirement annuity unless the member has submitted an approved payment plan to the board.~~

**SECTION 11. AMENDMENT.** Section 54-52-28 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-28. Internal Revenue Code compliance.** The board shall administer the plan in compliance with section 415, section 401(a)(9), section 401(a)(17), and section 401(a)(31) of the Internal Revenue Code in effect on August 1, ~~2005~~ 2007, as it applies for governmental plans.

**SECTION 12. AMENDMENT.** Section 54-52-29 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-29. Employer service purchases.** A participating employer may purchase additional service credit on behalf of a member under the following conditions:

1. The member may not be given the option to choose between an employer service purchase and an equivalent amount paid in cash.
2. The member must meet one of the following conditions at the time the purchase is made:
  - a. The member's age plus service credit must be equal to or greater than seventy-five; or
  - b. The member's age must be at least fifty-five and the member must have at least three years of service credit.
3. The board must determine the purchase price on an actuarially equivalent basis, taking into account the contributions necessary for both the retirement program and the retiree health benefits fund.
4. The purchase must be completed before the member's retirement.
5. The employer may purchase a maximum of five years of service credit on behalf of the member.
6. The employer must pay the purchase price for the service credit purchased under this section in a lump sum.

**SECTION 13. AMENDMENT.** Section 54-52.6-09.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-09.2. Additional employer contributions.** Additional lump sum contributions by an employer to a participating member's defined contribution retirement plan account may be made if the participating member has ~~twenty-five years of service, has~~ not retired, and has not received a retirement benefit under this chapter. Contributions may be made in an amount actuarially equivalent to the amounts determined pursuant to chapter 54-52 as follows:

1. For the conversion of sick leave pursuant to section 54-52-27 if the participating member has four or more years of service.
2. The equivalent of up to five years of service credit unrelated to any other eligible service as provided in subsection 5 of section 54-52-29 if the participating member has twenty-five or more years of service.

**SECTION 14. AMENDMENT.** Section 54-52.6-10 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-10. Vesting.** A participating member is immediately one hundred percent vested in that member's contributions made to that member's account under this chapter. A participating member vests in the employer contributions made on that member's behalf to an account under this chapter according to the following schedule:

1. Upon completion of two years of service, fifty percent.
2. Upon completion of three years of service, seventy-five percent.
3. Upon completion of four years of service, one hundred percent.

A participating member also becomes one hundred percent vested in the employer contributions upon reaching age sixty-five. A participating member who was a member or deferred member of the public employees retirement system under chapter 54-52 who makes an election to participate in the defined contribution retirement plan pursuant to this chapter, must be credited with the years of service accrued under the public employees retirement system on the effective date of participation in the defined contribution retirement plan for the purpose of meeting vesting requirements for benefits under this section. Any forfeiture as a result of the failure of a participating member to vest in the employer contribution must be deposited in the administrative expenses account.

**SECTION 15. AMENDMENT.** Subsection 4 of section 54-52.6-13 of the North Dakota Century Code is amended and reenacted as follows:

4. If the former participating member's vested account balance is less than ~~five~~ one thousand dollars, the board shall automatically refund the member's vested account balance upon termination of employment. The member may waive the refund if the member submits a written statement to the board, within one hundred twenty days after termination, requesting that the member's vested account balance remain in the plan.

Approved March 16, 2007  
Filed March 16, 2007

**CHAPTER 483****HOUSE BILL NO. 1078**

(Government and Veterans Affairs Committee)

(At the request of the State Board for Career and Technical Education)

**BOARD FOR CAREER AND TECHNICAL EDUCATION  
PERS PARTICIPATION**

AN ACT to create and enact a new section to chapter 54-52 of the North Dakota Century Code, relating to participation by employees of the state board for career and technical education in the public employees retirement system; to amend and reenact section 15-39.1-09, subsection 4 of section 54-52-01, and subsection 1 of section 54-52.1-03.2 of the North Dakota Century Code, relating to participation by employees of the state board for career and technical education in the public employees retirement system; and to provide an appropriation.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

<sup>228</sup> **SECTION 1. AMENDMENT.** Section 15-39.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-09. Membership in fund and assessments - Employer payment of employee contribution.**

1. Except as provided in subsection 2 of section 15-39.1-10.3 and ~~subsection subsections 3 and 4~~, every teacher is a member of the fund and must be assessed upon the teacher's salary seven and seventy-five hundredths percent per annum, which must be deducted, certified, and paid monthly to the fund by the disbursing official of the governmental body by which the teacher is employed. Every governmental body employing a teacher shall pay to the fund seven and seventy-five hundredths percent per annum of the salary of each teacher employed by it. The disbursing official of the governmental body shall certify the governmental body payments and remit the payments monthly to the fund.
2. Each employer, at its option, may pay the teacher contributions required by subsection 1 for all compensation earned after June 30, 1983. The amount paid must be paid by the employer in lieu of contributions by the employee. If an employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining income tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the teacher in determining tax treatment under this code and the Internal

---

<sup>228</sup> Section 15-39.1-09 was also amended by section 3 of Senate Bill No. 2046, chapter 157.

Revenue Code until they are distributed or made available. The employer shall pay these teacher contributions from the same source of funds used in paying compensation to the teachers. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases. If teacher contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as teacher contributions made prior to the date the contributions were assumed by the employer. The option given employers by this subsection must be exercised in accordance with rules adopted by the board.

3. A person, except the superintendent of public instruction, who is certified to teach in this state by the education standards and practices board and who is first employed and entered upon the payroll of the superintendent of public instruction after January 6, 2001, may elect to become a participating member of the public employees retirement system. An election made by a person to participate in the public employees retirement system under this subsection is irrevocable. Nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, may elect to transfer to the public employees retirement system pursuant to section 54-52-02.13. Employees of the state board for career and technical education may elect to transfer to the public employees retirement system pursuant to section 3 of this Act.
4. An individual who is first employed and entered upon the payroll of the state board for career and technical education after the effective date of this Act may elect to become a participating member of the public employees retirement system. An election made by an individual to participate in the public employees retirement system under this subsection is irrevocable.

**SECTION 2. AMENDMENT.** Subsection 4 of section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 3 of this Act. Eligible employee does not include nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.

**SECTION 3.** A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

**Participation by employees of the state board for career and technical education.** Notwithstanding any other provision of law, between the effective date of this Act and five p.m. on August 31, 2007, an employee of the state board for career and technical education who is otherwise eligible to participate in the public employees retirement system may file an election with the staff of the retirement and investment office to transfer from the teachers' fund for retirement to the public employees retirement system. The teachers' fund for retirement shall certify the employees who are eligible to transfer. An election to transfer is irrevocable for as long as the employee remains employed with the state board for career and technical education. The teachers' fund for retirement shall certify a transferring employee's salary, service credit, contribution history, account balance, and any other necessary information to the public employees retirement system. The amount to be transferred is the greater of the actuarial present value of the employee's accrued benefit as of July 1, 2007, plus interest at the rate of seven and one-half percent from July 1, 2007, until the date the amount is transferred to the public employees retirement system or the employee's account balance on the date of transfer. The public employees retirement system shall credit the transferring employee with the service credit specified by the teachers' fund for retirement and shall convert the annual salary history from the teachers' fund for retirement to a monthly salary for the period. An employee becomes a member of the public employees retirement system as of the date the funds are transferred. To be eligible to transfer, an employee must be employed by the state board for career and technical education on the date of the transfer. The state board for career and technical education shall begin making retirement contributions, and the public employees retirement system shall begin receiving those retirement contributions, on behalf of employees who have elected to transfer to the public employees retirement system to that system the first of the month following the date of transfer.

**SECTION 4. AMENDMENT.** Subsection 1 of section 54-52.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

1. The board shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding and providing hospital benefits coverage and medical benefits coverage under the uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this chapter. The state shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries and wages of all participating members of the highway patrolmen's retirement system under chapter 39-03.1, and one percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 or the retirement plan under chapter 54-52.6 shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries or wages of all participating members of the public employees retirement system under chapter 54-52 or chapter 54-52.6, except for nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13 and employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 3 of this Act. For nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13, the superintendent of public instruction

shall contribute monthly to the retiree health benefits fund an amount equal to three and one-tenth percent of the monthly salaries or wages of those nonteaching employee members, beginning on the first of the month following the transfer under section 54-52-02.13 and continuing thereafter for a period of eight years, after which time the superintendent of public instruction shall contribute one percent of the monthly salary or wages of those nonteaching employee members. For employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 3 of this Act, the state board for career and technical education shall contribute monthly to the retiree health benefits fund an amount equal the two and eighty-five hundredths percent of the monthly salary or wages of those employee members, beginning on the first of the month following the transfer under section 3 of this Act and continuing thereafter for a period of eight years, after which time the state board for career and technical education shall contribute one percent of the monthly salary or wages of those employee members. The employer of a national guard security officer or firefighter shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries or wages of all national guard security officers or firefighters participating in the public employees retirement system under chapter 54-52. Job service North Dakota shall reimburse monthly the retiree health benefits fund for credit received under section 54-52.1-03.3 by members of the retirement program established by job service North Dakota under section 52-11-01. The board, as trustee of the fund and in exclusive control of its administration, shall:

- a. Provide for the investment and disbursement of moneys of the retiree health benefits fund and administrative expenditures in the same manner as moneys of the public employees retirement system are invested, disbursed, or expended.
- b. Adopt rules necessary for the proper administration of the retiree health benefits fund, including enrollment procedures.

**SECTION 5. APPROPRIATION.** There is appropriated out of any moneys in the public employees retirement fund, not otherwise appropriated, the sum of \$3,000, or so much of the sum as may be necessary, to the public employees retirement system for the purpose of implementing this Act, for the biennium beginning July 1, 2007, and ending June 30, 2009.

Approved March 23, 2007  
Filed March 23, 2007

**CHAPTER 484****SENATE BILL NO. 2044**

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System Board)

**PERS SUPPLEMENTAL RETIREE BENEFIT PAYMENTS**

AN ACT to amend and reenact sections 39-03.1-11.3, 54-52-17.11, and 54-52-17.13 of the North Dakota Century Code, relating to supplemental retiree benefit payments under the public employees retirement system.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 39-03.1-11.3 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-11.3. Supplemental retiree benefit payment.** If the board determines that the fund has obtained a total return on investments of ~~eleven and two tenths~~ nine and six hundredths percent or higher for the fiscal year ending June 30, ~~2005~~ 2007, or June 30, ~~2006~~ 2008, ~~and that the fund has the necessary margin to pay for the benefit,~~ the board shall authorize a payment to each retiree receiving benefit payments under this chapter as of the date of the fiscal yearend in the amount of fifty percent of the retiree's then current monthly benefit payment. ~~The payment must be made the January following the fiscal yearend an additional payment equal to seventy-five percent of the January retirement allowance following the fiscal yearend to each eligible retiree in pay status as of that January, including joint and survivor and term certain beneficiaries, under this chapter.~~ The board may only make one payment under this section.

**SECTION 2. AMENDMENT.** Section 54-52-17.11 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.11. Judges postretirement adjustments.** A supreme or district court judge or that person's beneficiary who, on December 31, ~~2004~~ 2007, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, ~~2002~~ 2008. A supreme or district court judge or that person's beneficiary who, on December 31, ~~2002~~ 2008, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, ~~2003~~ 2009. The increases allowed by this section may only be given if the public employees retirement board determines there is actuarial margin sufficient to pay the increases.

**SECTION 3. AMENDMENT.** Section 54-52-17.13 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.13. Supplemental retiree benefit payment.** If the board determines that the fund has obtained a total return on investments of ~~eleven and two-tenths~~ nine and six hundredths percent or higher for the fiscal year ending June 30, ~~2005~~ 2007, or June 30, ~~2006~~ 2008, and that the fund has the necessary margin to pay for the benefit, the board shall authorize a payment to each retiree receiving benefit payments under this chapter as of the date of the fiscal yearend in the amount of fifty percent of the retiree's then current monthly benefit payment. The payment must be made the January following the fiscal yearend an additional payment equal to seventy-five percent of the January retirement allowance following the fiscal yearend to each eligible retiree in pay status as of that January, excluding judicial retirees and beneficiaries, but including joint and survivor and term certain beneficiaries, under this chapter. The board may only make one payment to each retiree under this section.

Approved March 13, 2007  
Filed March 14, 2007

**CHAPTER 485****HOUSE BILL NO. 1179**

(Representatives Price, N. Johnson, Porter)

(Senators Fischer, J. Lee, Lyson)

**UNIFORM GROUP INSURANCE PARTICIPATION**

AN ACT to amend and reenact subsection 1 of section 23-35-04 and section 54-52.1-03.1 of the North Dakota Century Code, relating to the formation of health districts and to participation in the uniform group insurance program.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 1 of section 23-35-04 of the North Dakota Century Code is amended and reenacted as follows:

1. Upon the adoption of a resolution, the governing body may form a single county, multicounty, or a city-county health district.

**SECTION 2. AMENDMENT.** Section 54-52.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.1. Certain political subdivisions authorized to join uniform group insurance program - Employer contribution.** A political subdivision may extend the benefits of the uniform group insurance program under this chapter to its permanent employees, subject to minimum requirements established by the board and a minimum period of participation of sixty months. If the political subdivision withdraws from participation in the uniform group insurance program, before completing sixty months of participation, the political subdivision shall make payment to the board in an amount equal to any expenses incurred in the uniform group insurance program that exceed income received on behalf of the political subdivision's employees as determined under rules adopted by the board. The Garrison Diversion Conservancy District, and district health units required to participate in the public employees retirement system under section 54-52-02, shall participate in the uniform group insurance program under the same terms and conditions as state agencies. A retiree who has accepted a retirement allowance from a participating political subdivision's retirement plan may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the employee's spouse reaches age sixty-five, upon the receipt of a benefit, when the political subdivision joins the uniform group insurance plan if the retiree was a member of the former plan, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this section, the retiree or surviving spouse must meet the minimum requirements established by the board. Each retiree or surviving spouse shall pay directly to the board the premiums in effect for the coverage then being provided. The board may require documentation that the retiree has accepted a retirement allowance from an eligible retirement plan other than the public employees retirement system.

Approved March 21, 2007

Filed March 21, 2007

**CHAPTER 486****SENATE BILL NO. 2045**

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System Board)

**UNIFORM GROUP INSURANCE ADMINISTRATION**

AN ACT to create and enact a new subsection to section 54-52.1-02 of the North Dakota Century Code, relating to prescription drug coverage under the uniform group insurance program; and to amend and reenact subsection 3 of section 54-52.1-03.3 and sections 54-52.1-03.4 and 54-52.1-04 of the North Dakota Century Code, relating to the retiree health benefits fund, employer payment of a temporary employee's health insurance premium, temporary employee eligibility, and bids for prescription drug coverage under the uniform group insurance program.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new subsection to section 54-52.1-02 of the North Dakota Century Code is created and enacted as follows:

Retired medicare-eligible employee group prescription drug coverage.

**SECTION 2. AMENDMENT.** Subsection 3 of section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The board shall apply the credit allowable under subsection 2 to the payment of monthly premiums required of each person eligible under subsection 1 for hospital benefits coverage and medical benefits coverage under the uniform group insurance program. The board shall allow spouses who each have credit under subsection 2 to combine their credits and shall apply the combined credit to the required monthly premiums under the uniform group insurance program. However, if the allowable credit under any circumstance exceeds the monthly premium in effect for selected coverage, that amount of the credit which exceeds the premium is forfeited and may not be used for any other purpose.

**SECTION 3. AMENDMENT.** Section 54-52.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.4. Participation by employees of certain political subdivisions and temporary employees.** An employee of a county, city, school district, district health unit, or park district that is not participating in the uniform group insurance program pursuant to section 54-52.1-03.1 and is not eligible for any other employee group health plan may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements established by the board. The board may use risk-adjusted premiums for individual insurance contracts to implement the provisions of this section allowing employees of a county, city, school district, district health unit, or park district to participate in the uniform group insurance program. The county, city, school district, district health unit, or park district employee participating in the uniform group insurance program under this section shall pay monthly to the board the premiums in effect for the coverage being provided. A

temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program. A temporary employee employed on or after August 1, 2007, is only eligible to participate in the uniform group insurance program if the employee is employed at least twenty hours per week and at least twenty weeks each year of employment. The temporary employee or the temporary employee's employer shall pay monthly to the board the premiums in effect for the coverage being provided. A political subdivision, department, board, or agency may ~~not~~ make a contribution for coverage under this section. ~~The board may employ one additional employee to implement the provisions of this section relating to participation by employees of a county, city, school district, district health unit, or park district in the uniform group insurance program.~~

**SECTION 4. AMENDMENT.** Section 54-52.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04. Board to contract for insurance.** The board shall receive bids for the providing of hospital benefits coverage, medical benefits coverage, life insurance benefits coverage for a specified term, and employee assistance program services; may receive bids separately for retired medicare-eligible employee group prescription drug coverage; and shall accept the bid of and contract with the carrier that in the judgment of the board best serves the interests of the state and its eligible employees. Solicitations must be made not later than ninety days before the expiration of an existing uniform group insurance contract. Bids must be solicited by advertisement in a manner selected by the board that will provide reasonable notice to prospective bidders. In preparing bid proposals and evaluating bids, the board may utilize the services of consultants on a contract basis in order that the bids received may be uniformly compared and properly evaluated. In determining which bid, if any, will best serve the interests of eligible employees and the state, the board shall give adequate consideration to the following factors:

1. The economy to be effected.
2. The ease of administration.
3. The adequacy of the coverages.
4. The financial position of the carrier, with special emphasis as to its solvency.
5. The reputation of the carrier and any other information that is available tending to show past experience with the carrier in matters of claim settlement, underwriting, and services.

The board may reject any or all bids and, in the event it does so, shall again solicit bids as provided in this section. The board may establish a plan of self-insurance for providing health insurance benefits coverage only under an administrative services only (ASO) contract or a third-party administrator (TPA) contract.

Approved May 1, 2007  
Filed May 2, 2007

**CHAPTER 487****HOUSE BILL NO. 1432**

(Representatives Price, Svedjan, Weisz)  
(Senators Fischer, Holmberg, J. Lee)

**COLLABORATIVE DRUG THERAPY PROGRAM**

AN ACT to create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to health treatment management services for state employees and their families; and to provide a continuing appropriation.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

**Uniform group insurance program - Collaborative drug therapy program - Continuing appropriation.**

1. The board may establish a collaborative drug therapy program available to individuals in the medical and hospital benefits coverage group. The purpose of the collaborative drug therapy program is to improve the health of individuals in identified health populations and to manage health care expenditures.
2. Under the program, the board may involve physicians, pharmacists, and other health professionals to coordinate health care for individuals in identified health populations in order to improve health outcomes and reduce spending on care for the identified health problem. Under the program, pharmacists and other health professionals may be reimbursed for providing face-to-face collaborative drug therapy services to covered individuals in the identified health population. To encourage enrollment in the plan, the board may provide incentives to covered individuals in the identified health population which may include waived or reduced copayment for related treatment drugs and supplies.
3. The board may request the assistance of the North Dakota pharmacists association or a specified delegate to implement a formalized disease management program with the approval of the prescriptive practices committee established in section 43-15-31.4, which must serve to standardize chronic disease care and improve patient outcomes. This program must facilitate enrollment procedures, provide standards of care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.
4. The board may seek and accept private contributions, gifts, and grants-in-aid from the federal government, private industry, and other sources for a collaborative drug therapy program for identified health populations. Any funds that may become available through contributions, gifts, grants-in-aid, or other sources to the board for a

collaborative drug therapy program are appropriated to the board on a continuing basis.

Approved April 10, 2007  
Filed April 11, 2007

**CHAPTER 488****HOUSE BILL NO. 1433**

(Representatives Price, Svedjan, Weisz)  
(Senators Fischer, Holmberg, J. Lee)

**DIABETES TREATMENT**

AN ACT to create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to diabetes treatment management services for state employees and their families.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

**Uniform group insurance program - Collaborative drug therapy program - Funding.**

1. The board shall establish a collaborative drug therapy program that is to be available to individuals in the medical and hospital benefits coverage group. The purpose of the collaborative drug therapy program is to improve the health of individuals with diabetes and to manage health care expenditures.
2. The board shall involve physicians, pharmacists, and certified diabetes educators to coordinate health care for covered individuals with diabetes in order to improve health outcomes and reduce spending on diabetes care. Under the program, pharmacists and certified diabetes educators may be reimbursed for providing face-to-face collaborative drug therapy services to covered individuals with diabetes. To encourage enrollment in the plan, the board shall provide incentives to covered individuals who have diabetes which may include waived or reduced copayment for diabetes treatment drugs and supplies.
3. The North Dakota pharmacists association or a specified delegate shall implement a formalized diabetes management program with the approval of the prescriptive practices committee established in section 43-15-31.4, which must serve to standardize diabetes care and improve patient outcomes. This program must facilitate enrollment procedures, provide standards of diabetes care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.
4. The board shall fund the program from any available funds in the uniform group insurance program and if necessary the fund may add up to a two dollar per month charge on the policy premium for medical and hospital benefits coverage. A state agency shall pay any additional premium from the agency's existing appropriation.

Approved April 25, 2007  
Filed April 25, 2007

**CHAPTER 489****HOUSE BILL NO. 1065**

(Transportation Committee)

(At the request of the State Board of Higher Education)

**ADVISORY TRANSPORTATION COUNCIL  
MEMBERSHIP**

AN ACT to amend and reenact section 54-53-02 of the North Dakota Century Code, relating to the membership of the advisory transportation council of the upper great plains transportation institute.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 54-53-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-53-02. Advisory transportation council - Composition.** There is established a transportation council that shall serve in an advisory capacity to the upper great plains transportation institute. The director of the institute shall serve as the executive secretary of the council. The council shall elect its own chairman. The council membership consists of one representative from and appointed by the following:

1. The greater North Dakota ~~association~~ chamber of commerce.
2. The North Dakota public service commission.
3. The North Dakota farm bureau.
4. The North Dakota farmers union.
5. The North Dakota grain growers association.
6. The North Dakota state wheat commission.
7. The North Dakota department of commerce.
8. The North Dakota grain dealers association.
9. The North Dakota motor carriers association.
10. The North Dakota aeronautics commission.
11. The North Dakota department of transportation.
12. The North Dakota agriculture commissioner.
13. The North Dakota association of general contractors.
14. The North Dakota railway industry, appointed by the council.

15. The North Dakota primary sector of manufacturing, appointed by the council.
16. The North Dakota association of counties.
17. The North Dakota league of cities.
18. The lignite energy council.

Members of the council shall serve without pay, but they may receive reimbursement for actual and necessary expenses incurred in the performance of their duties, if authorized by the director.

The council shall consult with the institute in matters of policy affecting the administration of this chapter and in the development of transportation in the state of North Dakota. The council shall meet at the call of the executive director or upon the written request of three or more members of the council.

Approved April 13, 2007  
Filed April 16, 2007

**CHAPTER 490****SENATE BILL NO. 2038**  
(Legislative Council)  
(Information Technology Committee)**INFORMATION TECHNOLOGY PROJECTS AND  
REPORT**

AN ACT to create and enact a new subsection to section 54-35-15.2 of the North Dakota Century Code, relating to powers and duties of the information technology committee; and to amend and reenact sections 54-59-02.1, 54-59-07, and 54-59-09 of the North Dakota Century Code, relating to major information technology projects, the state information technology advisory committee, and information technology standards.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

<sup>229</sup> **SECTION 1.** A new subsection to section 54-35-15.2 of the North Dakota Century Code is created and enacted as follows:

Receive a report from the chief information officer regarding the recommendations of the state information technology advisory committee relating to the prioritization of proposed major information technology projects and other information technology issues.

**SECTION 2. AMENDMENT.** Section 54-59-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-02.1. Department shall establish certain standards for agencies - Advisory committee - Exceptions Prioritization of proposed major information technology projects.** ~~The department shall appoint an advisory committee consisting of representatives of state agencies for the purposes of prioritizing major computer software projects and establishing policies, standards, and guidelines submit information regarding proposed major information technology projects for executive branch state agencies, departments, and institutions, excluding institutions under control of the state board of higher education and agencies of the judicial and legislative branches with respect to the purchase of computer software and computer systems to the state information technology advisory committee. The committee shall review the projects and rank those projects that receive the committee's affirmative recommendation. The chief information officer shall submit recommendations of the advisory committee regarding the prioritization of major software information technology projects to the information technology committee for consideration by the committee and the drafting of appropriate legislation to implement the recommendations, the office of management and budget, and the appropriations committees of the legislative assembly. The judicial and legislative branches shall annually notify the advisory committee on their major~~

---

<sup>229</sup> Section 54-35-15.2 was also amended by section 10 of House Bill No. 1021, chapter 21, section 3 of House Bill No. 1461, chapter 154, and section 2 of Senate Bill No. 2037, chapter 491.

~~computer software information technology projects and priorities. The chief information officer may exempt an agency from the policies, standards, and guidelines established by the committee to address situations unique to that agency.~~

**SECTION 3. AMENDMENT.** Section 54-59-07 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-07. State information technology advisory committee.** The state information technology advisory committee consists of the chief information officer; the commissioner of higher education or the commissioner's designee; the attorney general or the attorney general's designee; the secretary of state or the secretary of state's designee; the tax commissioner or the commissioner's designee; the chief justice of the supreme court or the chief justice's designee; two members of the legislative assembly appointed by the legislative council; a minimum of eight members representing state agencies, appointed by the governor; and two members with technology management expertise representing private industry, appointed by the governor. The appointees of the governor serve at the pleasure of the governor. The governor shall designate the chairman of the committee. Additional members may be asked to participate at the request of the chairman. The department shall provide staff services to the committee. The members of the committee representing private industry are entitled to be compensated for time spent in attendance at meetings of the committee and for other travel as approved by the chairman of the committee at the rate of sixty-two dollars and fifty cents per day and are entitled to reimbursement for actual and necessary expenses incurred in the same manner as other state officials. The compensation and expenses are to be paid from appropriations for the department. The committee shall advise the department regarding statewide information technology planning and budgeting, services of the information technology department, and statewide information technology initiatives and policy and shall review reports on major information technology projects as required by this chapter and policies, standards, and guidelines developed by the department. The chief information officer shall submit recommendations of the committee regarding information technology issues to the information technology committee for its consideration.

<sup>230</sup> **SECTION 4. AMENDMENT.** Section 54-59-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-09. Information technology standards.** Based on information from state agencies and institutions, the department and the office of management and budget shall develop statewide information technology policies, standards, and guidelines. The policies, standards, and guidelines must recognize the uniqueness of certain agencies and state which agencies are included or exempted from the policies, standards, and guidelines. The policies, standards, and guidelines must be reviewed by the state information technology advisory committee. ~~Unless an exemption is granted by the chief information officer, each~~ Each executive branch state agency and institution, excluding the institutions under the control of the board of higher education with respect to academic and research uses of information technology, shall comply with the policies and standards developed by the department and the office of management and budget unless the chief information officer exempts an agency from the policies, standards, and guidelines to address

---

<sup>230</sup> Section 54-59-09 was also amended by section 5 of House Bill No. 1461, chapter 154.

situations unique to that agency. Unless an exemption is granted by the chief information officer, each entity receiving wide area network services provided by the department shall comply with the policies and standards developed by the department with respect to access to or use of wide area network services.

Approved March 13, 2007  
Filed March 14, 2007

**CHAPTER 491****SENATE BILL NO. 2037**  
(Legislative Council)  
(Information Technology Committee)**ITD DUTIES, PLANS, AND REPORT**

AN ACT to amend and reenact subdivision h of subsection 2 of section 12-60-24 and sections 54-35-15.2, 54-59-05, 54-59-11, 54-59-19, 54-59-20, and 54-59-21 of the North Dakota Century Code, relating to criminal history record checks, powers and duties of the information technology committee and the information technology department, information technology plans, the information technology department annual report, and access to the criminal justice information sharing system.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

<sup>231</sup> **SECTION 1. AMENDMENT.** Subdivision h of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

- h. The chief information officer of the information technology department for certain ~~employees~~ individuals under section 54-59-20.

<sup>232</sup> **SECTION 2. AMENDMENT.** Section 54-35-15.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-15.2. Information technology committee - Powers and duties.** The information technology committee has continuing existence and may meet and conduct its business during the legislative session and in the interim between sessions. The committee shall:

1. Meet at least once each calendar quarter.
2. Receive a report from the chief information officer of the state at each meeting.
3. Review the business plan of the information technology department.
4. ~~Address~~ Review macro-level ~~questions~~ issues relating to ~~the~~ information technology ~~department~~.

---

<sup>231</sup> Section 12-60-24 was also amended by section 1 of House Bill No. 1313, chapter 374, section 1 of House Bill No. 1455, chapter 367, section 2 of House Bill No. 1490, chapter 70, section 3 of Senate Bill No. 2260, chapter 115, and section 4 of Senate Bill No. 2260, chapter 115.

<sup>232</sup> Section 54-35-15.2 was also amended by section 10 of House Bill No. 1021, chapter 21, section 3 of House Bill No. 1461, chapter 154, and section 1 of Senate Bill No. 2038, chapter 490.

5. Review the activities of the information technology department.
6. Review statewide information technology standards.
7. Review the statewide information technology plan.
8. ~~Conduct studies of~~ Review information technology efficiency and security.
9. ~~Make recommendations regarding~~ Review established or proposed information technology programs and information technology acquisition by the executive and judicial branches.
10. Except as provided in subsection 11, ~~receive and review the information, including a project startup report summarizing the project description, project objectives, business need or problem, cost-benefit analysis of, and project risks and a project closeout report summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, from the information technology department and the affected agency regarding any major information technology project of an executive or judicial branch agency. A~~ For the purposes of this subsection, a major project is a project with a cost of two hundred fifty thousand dollars or more in one biennium or a total cost of five hundred fifty thousand dollars or more.
11. ~~Review the~~
  - a. ~~Receive and review information, including a project startup report summarizing the project description, project objectives, business need or problem, cost-benefit analysis of, and project risks and a project closeout report summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, from the information technology department and the affected institution regarding any major project of the state board of higher education or any institution under the control of the state board of higher education if the project:~~
    - a- (1) Significantly impacts the statewide wide area network, including the campus access routers;
    - b- (2) Impacts the statewide library system; or
    - e- (3) Is an administrative project. An administrative project is a project that directly collects, aggregates, modifies, stores, or reports institutional student, financial, or human resources records or data and is provided primarily for administrative purposes.
  - b. For the purposes of this subsection, a major project is a project with a cost of two hundred fifty thousand dollars or more in one biennium or a total cost of five hundred thousand dollars or more.
12. ~~Perform periodic reviews to ensure that a major information technology project is on its projected schedule and within its cost projections. Receive and review information from the information technology department and the affected agency regarding any information~~

technology project of an executive branch agency with a total cost of between one hundred thousand and two hundred fifty thousand dollars as determined necessary by the information technology department.

<sup>233</sup> **SECTION 3. AMENDMENT.** Section 54-59-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-05. Powers and duties of department.** The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.
3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the budget section of the legislative council or the legislative assembly before executing a financing agreement. If the budget section or the legislative assembly does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.
5. Shall review requests for lease, purchase, or other contractual acquisition of information technology as required by this subsection. Each executive branch agency or institution, excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other

---

<sup>233</sup> Section 54-59-05 was also amended by section 4 of House Bill No. 1461, chapter 154.

contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.

6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. Shall request and review information on or review information technology, applications, system development projects, and application development projects of executive branch agencies, including project startup information summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout information summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, regarding any major information technology project of an executive branch agency, the state board of higher education, or any institution under the control of the state board of higher education as provided in section 54-35-15.2. The department shall present the information to the information technology committee on request of the committee.
8. May request and review information regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and two hundred fifty thousand dollars as determined necessary by the department. The department shall present the information to the information technology committee on request of the committee.
9. Shall study emerging technology and evaluate its impact on the state's system of information technology.
- ~~9.~~ 10. Shall develop guidelines for reports to be provided by each executive branch agency, institution, or department, the institutions under the control of the board of higher education, and agencies of the judicial and legislative branches on information technology in those entities.
- ~~40.~~ 11. Shall review the information technology management of executive branch agencies or institutions.
- ~~44.~~ 12. Shall perform all other duties necessary to carry out this chapter.
- ~~42.~~ 13. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003. The department shall file with the state auditor before September 1,

2003, a description of the wide area network service the department provided to each private, charitable, and nonprofit entity receiving services from the department on January 1, 2003.

- ~~43.~~ 14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.
- ~~44.~~ 15. Notwithstanding subsection ~~42~~ 13, ~~the department~~ may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.

<sup>234</sup> **SECTION 4. AMENDMENT.** Section 54-59-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-11. Information technology plans.** Each executive branch state agency or institution, including the institutions under the control of the board of higher education, shall prepare an information technology plan, subject to ~~approval~~ acceptance by the department. The plan must be submitted to the department by July fifteenth of each even-numbered year. The plan must be prepared based on guidelines developed by the department; must provide the information technology goals, objectives, and activities of the entity for the current biennium and the next two bienniums; and must include ~~information regarding an asset management plan relating to the inventory of~~ information technology assets owned, leased, or employed by the entity. Each entity required to file a plan shall provide interim updates to its plan if major information technology changes occur which affect its plan. The department shall review each entity's plan for compliance with statewide information technology policies and standards and may require an entity to change its plan to comply with statewide policies or standards or to resolve conflicting directions among plans. Agencies of the judicial and legislative branches shall file their information technology plans with the department by July fifteenth of each even-numbered year. ~~Each state entity required to file a plan shall prepare its budget request for the next biennium based on its information technology plan. The agency's budget request and the governor's budget recommendation must include supporting information describing in detail how the information technology plan relates to the budget request and recommendation. Any budget adjustment by the budget office must include the corresponding change to the plan. Based on the plans, the department shall prepare a statewide information technology plan and distribute copies of that plan to members of the legislative assembly as requested by the legislative council or its designee. The statewide information technology plan must be developed with emphasis on long-term strategic goals and, objectives, and accomplishments. The statewide information technology plan must contain:~~

1. A list of major projects started, ongoing, and completed during the biennium, including related budgeted and actual costs and the estimated implementation date for each project as well as the actual implementation date for completed projects.

---

<sup>234</sup> Section 54-59-11 was also amended by section 6 of House Bill No. 1461, chapter 154.

2. Information regarding evaluations of cost-benefit analyses for completed projects.
3. Information regarding the information technology plans, including the department's plan review process, the number of plans reviewed, and the number of plans accepted.
4. A description of the benefits to the state resulting from its investment in information technology.

<sup>235</sup> **SECTION 5. AMENDMENT.** Section 54-59-19 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-19. Information technology department annual report.** The department shall prepare and present an annual report to the information technology committee. In addition to the presentation of the annual report to the information technology committee, the department shall present a summary of the annual report to the budget section and to the legislative audit and fiscal review committee. The report must contain:

- ~~1. A list of major projects started, ongoing, and completed during the year including related budgeted and actual costs and the estimated implementation date for each project as well as the actual implementation date for completed projects.~~
- ~~2. A list of all projects for which financing agreements have been executed.~~
- ~~3. Information regarding evaluations of cost-benefit analyses for completed projects.~~
2. A comparison of the department's rates charged for services compared to rates charged for comparable services in other states and in the private sector.
- ~~5. Information regarding the information technology plans including the department's plan review process, the number of plans reviewed, and the number of plans approved.~~
- ~~6. A description of the benefits to the state resulting from its investment in information technology.~~
3. Information regarding the delivery of services to agencies, including service dependability, agency complaints, and information technology department responsiveness.

<sup>236</sup> **SECTION 6. AMENDMENT.** Section 54-59-20 of the North Dakota Century Code is amended and reenacted as follows:

---

<sup>235</sup> Section 54-59-19 was also amended by section 4 of Senate Bill No. 2028, chapter 63, and section 2 of Senate Bill No. 2118, chapter 492.

<sup>236</sup> Section 54-59-20 was also amended by section 20 of Senate Bill No. 2260, chapter 115.

**54-59-20. Employees of the department - Security background information.** The chief information officer shall require as a condition of employment with the department that individuals who have unescorted physical access to the facilities or other security sensitive areas of the department designated by the chief information officer submit to a criminal history record check in accordance with section 12-60-24. The chief information officer may require as a condition of contracting with the department or other state agency or department with respect to an information technology project that any individual employed by the contractor or a subcontractor to perform the work under the contract submit to a criminal history record check in accordance with section 12-60-24.

<sup>237</sup> **SECTION 7. AMENDMENT.** Section 54-59-21 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-21. Criminal justice information sharing board - Membership - Duties and powers - Exempt records.** The criminal justice information sharing board consists of the chief justice of the supreme court or the chief justice's designee, the attorney general or the attorney general's designee, and the chief information officer of the state. The chief information officer is chairman of the board. The information technology department, at the direction of the board, shall maintain a criminal justice data information sharing system to facilitate the exchange of criminal justice information among judicial, law enforcement, and emergency personnel. Only a criminal justice agency, as defined in section 12-60-16.1, and any other person designated by the board may access the system. The system only may be accessed for the purposes set forth by the board. Any law enforcement record in the possession of the department is an exempt record. The information technology department shall provide staff and other necessary support to the board. The board shall set policy and adopt rules relating to the access to and the collection, storage, and sharing of criminal justice information and the systems necessary to perform those functions. The board shall provide operational oversight for criminal justice information sharing activities and shall approve and provide oversight of criminal justice information sharing budgets. The board may appoint an executive committee and an advisory committee that would serve in an advisory capacity to the board.

Approved April 12, 2007  
Filed April 13, 2007

---

<sup>237</sup> Section 54-59-21 was also amended by section 18 of Senate Bill No. 2003, chapter 30.

**CHAPTER 492****SENATE BILL NO. 2118**

(Government and Veterans Affairs Committee)  
(At the request of the Information Technology Department)

**INFORMATION TECHNOLOGY REPORTS AND  
RECORDS**

AN ACT to create and enact a new subsection to section 54-59-19 of the North Dakota Century Code, relating to annual reporting requirements of the information technology department; and to amend and reenact section 54-46-11 of the North Dakota Century Code, relating to management of state records.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 54-46-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-46-11. Biennial Annual report.** The ~~biennial annual~~ annual report of the ~~director of the office of management and budget~~ information technology department made in accordance with ~~sections 54-06-04 and 54-44-04~~ section 54-59-19 must describe the status and progress of programs established pursuant to this chapter and must include the recommendations of the administrator for improvements in the management of records in the state government.

<sup>238</sup> **SECTION 2.** A new subsection to section 54-59-19 of the North Dakota Century Code is created and enacted as follows:

A description of the status and progress of programs established pursuant to chapter 54-46 and as specifically required by section 54-46-11.

Approved April 12, 2007  
Filed April 13, 2007

---

<sup>238</sup> Section 54-59-19 was also amended by section 4 of Senate Bill No. 2028, chapter 63, and section 5 of Senate Bill No. 2037, chapter 491.

**CHAPTER 493****HOUSE BILL NO. 1137**

(Industry, Business and Labor Committee)  
(At the request of the Department of Commerce)

**ECONOMIC DEVELOPMENT ENTITIES AND MEMBERS**

AN ACT to create and enact three new sections to chapter 54-60 of the North Dakota Century Code, relating to the North Dakota American Indian business development office, the North Dakota women's business development office, and the international business and trade office; to amend and reenact sections 4-14.1-03, 10-30.5-03, 26.1-50-02, 54-34.3-06, 54-34.3-12, 54-60-04, and 55-01-01 of the North Dakota Century Code, relating to the composition of the agricultural products utilization commission, the North Dakota development fund, incorporated, board of directors, the North Dakota low-risk incentive fund governing board, the division of economic development and finance offices, the value-added agriculture promotion program, the North Dakota economic development foundation, the state historical board; and to repeal chapter 21-11 and sections 54-34.3-14 and 54-60-10 of the North Dakota Century Code, relating to the natural resources development bond issue, the international business and trade office, and the career guidance and job opportunities web site.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** Three new sections to chapter 54-60 of the North Dakota Century Code are created and enacted as follows:

**North Dakota American Indian business development office.** A North Dakota American Indian business development office is established within the department to assist North Dakota American Indian tribal and individual economic development representatives, businesses, and entrepreneurs with access to state and federal programs designed to assist these business interests. The office shall provide services to assist in the formation of partnerships between American Indian and non-American Indian businesses. The commissioner may contract with a third party for the provision of services for the office. If the commissioner contracts with a third party under this section, all data and data bases collected and created by the third party in performing services for the office are the property of the department and the third party.

**North Dakota women's business development office.** A North Dakota women's business development office is established within the department to develop and administer the North Dakota women's business program, to establish and fund the women's business leadership council, certify women-owned businesses for federal or state contracting, and to recruit, train, and assist women entrepreneurs to develop and diversify their businesses. The office must have an administrator and staff sufficient to implement the office's programs. The commissioner may contract with a third party for the provision of services for the office. If the commissioner contracts with a third party under this section, all data and data bases collected and created by the third party in performing services for the office are the property of the department and the third party.

**International business and trade office - Advisory board.**

1. The commissioner shall administer the international business and trade office. The purpose of the office is to assist North Dakota businesses expand exports to international markets by:
  - a. Advocating for exporters;
  - b. Offering export educational opportunities to North Dakota businesses;
  - c. Researching and raising awareness of export opportunities, issues, and challenges impacting North Dakota businesses;
  - d. Assisting North Dakota businesses in identifying, developing, and cultivating international markets for products; and
  - e. Organizing and carrying out trade missions that seek to facilitate contact and communication between North Dakota businesses and international markets.
2. The commissioner may contract with a third party for the provision of services for the international business and trade office. If the commissioner contracts with a third party under this subsection, all data and data bases collected and created by the third party in performing services for the office are the property of the department and the third party.
3. The department may seek and accept any gift, grant, or donation of funds, property, services, or other assistance from public or private sources for the purpose of furthering the objectives of the international business and trade office.
4. The commissioner may establish an international business and trade office advisory board with which the director may consult in administering the international business and trade office. Each member of the advisory board created under this subsection is entitled to receive per diem compensation at a rate established by the director not exceeding sixty-two dollars and fifty cents and reimbursement of expenses as provided by law for state officers, while attending meetings or performing duties directly related to board membership, except that per diem compensation under this section may not be paid to any member who receives compensation or salary as a regular state employee or official.

**SECTION 2. AMENDMENT.** Section 4-14.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**4-14.1-03. Agricultural products utilization commission - Composition - Appointment.** The agricultural fuel tax fund must be administered by the agricultural products utilization commission. The commission consists of nine members, five of whom must be appointed by the governor for terms of two years each, arranged so that two terms expire in odd-numbered years and three terms expire in even-numbered years. Three members appointed by the governor must be actively engaged in farming in this state and two members appointed by the governor must be actively engaged in business in this state. The agriculture commissioner shall

appoint one member for a term of two years which expires in odd-numbered years. The member appointed by the commissioner must be actively engaged in farming in this state. Commission members may be reappointed to the commission. Terms of commissioners shall run from the first day of July. The ~~director of the department commissioner~~ of commerce ~~division of economic development and finance~~, the president of North Dakota state university, and the agriculture commissioner, or their designees, are members of the commission. The commission shall elect one of its members as chairman.

**SECTION 3. AMENDMENT.** Section 10-30.5-03 of the North Dakota Century Code is amended and reenacted as follows:

**10-30.5-03. Organization.** A board of directors shall manage the corporation. The board of directors shall adopt and amend articles of incorporation and bylaws consistent with the purposes detailed in this chapter. The board of directors consists of eight members who shall serve three-year terms. The terms must be staggered so that no more than three positions require reappointment in any one year. The governor shall appoint the members and shall only consider representatives who serve in executive capacities from the following areas in making the selections: private sector manufacturing, finance, exported services, including tourism, and industrial technology and research. There must be at least one member who is enrolled in a federally recognized North Dakota Indian tribe who need not serve in an executive capacity, the ~~director of the department commissioner~~ of commerce ~~division of economic development and finance~~ or the ~~commissioner's designee~~, and one member from a rural area on the board of directors. Members may be reappointed for additional terms.

**SECTION 4. AMENDMENT.** Section 26.1-50-02 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-50-02. Establishment - Organization.** Any insurer or group of insurers may establish a corporation or limited liability company to own and operate the North Dakota low-risk incentive fund. Except as provided in this chapter, all authority regarding the articles of incorporation or articles of organization is the province of the governing board, which must include a representative of the Bank of North Dakota and the ~~director of the department commissioner~~ of commerce ~~division of economic development and finance~~ or the ~~commissioner's designee~~. The Bank of North Dakota shall administer the fund; however, the governing board is responsible for adopting fund policies and procedures. The governing board may not distribute more than seventy-five percent of the net profit of the fund in any of the first five years of operation.

**SECTION 5. AMENDMENT.** Section 54-34.3-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-34.3-06. Division offices.** The director shall organize and establish other offices as necessary to carry out most efficiently and effectively the mission and duties of the division; ~~except that the division must contain:~~

4. ~~A North Dakota American Indian business development office to assist North Dakota American Indian tribal and individual economic development representatives, businesses, and entrepreneurs with access to state and federal programs designed to assist these business interests. The office shall provide services to assist in the formation of partnerships between American Indian and non-American Indian businesses.~~

- 2- A North Dakota women's business development office to develop and administer the North Dakota women's business program, to establish and fund the women's business leadership council, certify women-owned businesses for federal or state contracting and to recruit, train, and assist women entrepreneurs to develop and diversify their businesses. The office must have an administrator and staff sufficient to implement the office's programs.

**SECTION 6. AMENDMENT.** Section 54-34.3-12 of the North Dakota Century Code is amended and reenacted as follows:

**54-34.3-12. Value-added agriculture promotion ~~program~~ board.**

1. The value-added agriculture promotion board is established. The board consists of ~~eight~~ a minimum of nine and a maximum of eleven members as follows: the ~~director of the department~~ commissioner of commerce ~~division of economic development and finance~~ or the ~~director's representative~~ commissioner's designee; the agriculture commissioner or the commissioner's ~~representative~~ designee; a representative of the state board of agricultural research and education, appointed by the governor; a representative of the North Dakota state university extension service, appointed by the governor; a representative of the Bank of North Dakota, appointed by the governor; a minimum of two and a maximum of four representatives of the private sector, appointed by the governor; ~~and~~ a representative of the farm credit system, appointed by the governor; and a representative of the agricultural products utilization commission.
2. The board shall ~~administer the value-added agriculture promotion program and shall review business plans for value-added agriculture projects. The board shall adopt procedures and guidelines for administering the program. The board shall meet on a regular schedule to review project proposals and prioritize projects based on the projects' likelihood for success. The board shall promote the formation, development, and growth of these projects and take steps to improve the projects' chances for success.~~
  - a. Serve in an advisory role to the commissioner of commerce on issues related to value-added agriculture.
  - b. Meet at times determined by the commissioner of commerce.
  - c. Promote the formation, development, and growth of value-added agriculture projects across the state.
3. If a project is selected for promotion by the board, the board shall appoint a financing advisory group for the project. The financing advisory group may include representatives of the private sector, a representative of the Bank of North Dakota, and an individual experienced in capital formation. The financing advisory group, with active assistance provided by any of the state's institutions of higher education and the local or regional economic development organization, shall assist the project in completing a feasibility study and a business plan for the project and in seeking early stage money. The financing advisory group shall assist the project in pursuing equity investors, establishing an initial board of directors, locating professional services

~~for completion of the business plan, and in approaching lenders to fund the project development.~~

4. The value-added agriculture promotion ~~program board~~ is located in the department of commerce division of economic development and finance. The department shall provide any necessary administrative assistance. Members of the value-added agriculture promotion board ~~and members of a financing advisory group~~ are entitled to reimbursement for mileage and travel as specified in section 54-06-09 and expenses as specified in section 44-08-04 for performing their duties.
5. ~~The board may impose a fee of not more than one thousand dollars per project for review and assistance provided for the project. Fees collected under this section must be deposited in the operating fund of the department of commerce division of economic development and finance and may be expended for expenses of members of the board and the financing advisory group for review and assistance provided for the project.~~

**SECTION 7. AMENDMENT.** Section 54-60-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-60-04. North Dakota economic development foundation - Executive committee - Duties.** The North Dakota economic development foundation is created.

1. The foundation is composed of a minimum of fifteen and a maximum of thirty members appointed by the governor for two-year terms, except the governor shall appoint approximately one-half of the initial foundation members to one-year terms in order to initiate a cycle of staggered terms. Appointment of the foundation members must ensure a cross section of business, tourism, and economic development representation, and must ensure that at least one member represents rural concerns.
2. The foundation members shall elect an executive committee with a minimum of five and a maximum of seven foundation members. ~~The executive committee members shall elect,~~ which shall include a chairman, vice chairman, and a secretary, treasurer, and up to three members at large.
3. The foundation shall seek funding for administrative expenses from private sector sources and shall seek and distribute private sector funds for use in commerce-related activities in the state.
4. The foundation shall:
  - a. Provide the governor advice and counsel in selecting the commissioner.
  - b. Serve in an advisory role to the commissioner.
  - c. Develop a strategic plan for economic development in the state and set accountability standards, measurements, and benchmarks

- to evaluate the effectiveness of the department in implementing the strategic plan.
- d. Develop a strategic plan for the development of value-added agriculture in the state.
  - e. Monitor tourism and economic development activities and initiatives of the department.
  - f. Recommend state and federal legislation relating to strengthening the state's economy and increasing the state's population.
  - g. Monitor state and federal legislation and initiatives that may impact the state's economy and population.
  - h. Serve as a source of expertise for developing public and private initiatives to strengthen the state's economy and increase the state's population.

**SECTION 8. AMENDMENT.** Section 55-01-01 of the North Dakota Century Code is amended and reenacted as follows:

**55-01-01. State historical board.** The board consists of twelve members, seven of whom are appointed by the governor. Each member appointed to the board must be a citizen and resident of the state. Appointments are for a term of three years from the first day of July to the thirtieth day of June of the third year or until a successor has been appointed and qualified. Vacancies occurring other than by the expiration of an appointive term must be filled by appointment for the remainder of the term only in the same manner as regular appointments. The remaining five members of the board are the secretary of state, director of the parks and recreation department, director of the department of transportation, ~~director of the department~~ commissioner of commerce ~~division of tourism~~, and state treasurer, each of whom may appoint a designee to attend meetings with full voting privileges. The board shall select from its membership a president, vice president, and secretary to serve as officers of the board.

<sup>239</sup> **SECTION 9. REPEAL.** Chapter 21-11 and sections 54-34.3-14 and 54-60-10 of the North Dakota Century Code are repealed.

Approved March 15, 2007  
Filed March 15, 2007

---

<sup>239</sup> Section 54-60-10 was amended by section 5 of Senate Bill No. 2028, chapter 63.

**CHAPTER 494****HOUSE BILL NO. 1095**

(Industry, Business and Labor Committee)  
(At the request of the Department of Commerce)

**BUSINESS INCENTIVES, AGREEMENTS, AND  
REPORTS**

AN ACT to amend and reenact subsection 2 of section 54-60.1-01 and subsection 3 of section 54-60.1-02 of the North Dakota Century Code, relating to business incentives, agreements, and reports.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

<sup>240</sup> **SECTION 1. AMENDMENT.** Subsection 2 of section 54-60.1-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Business incentive" means a state or political subdivision direct cash transfer, loan, or equity investment; contribution of property or infrastructure; reduction or deferral of any tax or any fee; guarantee of any payment under any loan, lease, or other obligation; or preferential use of government facilities given to a business. To be considered a business incentive, the total assistance in all forms must be valued at twenty-five thousand dollars or more committed within a year. Unless specifically provided otherwise, the term does not include:
  - a. Assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, or similar criteria.
  - b. Incentives resulting from Bank of North Dakota programs unless the incentive is a direct interest rate buydown, ~~is made pursuant to the beginning entrepreneur loan guarantee program,~~ or is an investment made pursuant to the North Dakota alternative and venture capital investments and early-stage capital funds program.
  - c. Public improvements to buildings or lands owned by the state or political subdivision which serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made.
  - d. Assistance provided for the sole purpose of renovating old or decaying building stock or bringing such building stock up to code and assistance provided for designated historic preservation districts, provided that the assistance does not exceed seventy-five percent of the total cost.

---

<sup>240</sup> Section 54-60.1-01 was also amended by section 39 of House Bill No. 1018, chapter 18, and section 4 of House Bill No. 1128, chapter 464.

- e. Assistance to provide job readiness and training services if the sole purpose of the assistance is to provide those services.
- f. Assistance for housing.
- g. Assistance for pollution control or abatement.
- h. Assistance for energy conservation.
- i. Tax reductions resulting from conformity with federal tax law.
- j. Benefits derived from regulation.
- k. Indirect benefits derived from assistance to educational institutions.
- l. Except for a center of excellence award under chapter 15-69, assistance for a collaboration between a North Dakota institution of higher education and a business.
- m. Redevelopment if the recipient's investment in the purchase of the site and in site preparation is seventy percent or more of the assessor's current year's estimated market value.
- n. General changes in tax increment financing law and other general tax law changes of a principally technical nature.
- o. Federal assistance provided through the state or a political subdivision until the assistance has been repaid to, and reinvested by, the state or political subdivision.
- p. Federal or state assistance for the lignite research, development, and marketing program under chapter 54-17.5.

**SECTION 2. AMENDMENT.** Subsection 3 of section 54-60.1-02 of the North Dakota Century Code is amended and reenacted as follows:

- 3. A state business incentive in the form of a direct cash transfer that is not a structured grant under state or federal law must be structured as a loan, a forgivable loan, or as a preferred share that includes provisions for surrender.

Approved March 6, 2007  
Filed March 7, 2007

**CHAPTER 495****HOUSE BILL NO. 1059**

(Representatives DeKrey, Delmore)

(At the request of the Commission on Legal Counsel for Indigents)

**COMMISSION ON LEGAL COUNSEL FOR INDIGENTS  
INFORMATION CONFIDENTIALITY**

AN ACT to amend and reenact section 54-61-04 of the North Dakota Century Code, relating to confidentiality of commission on legal counsel for indigents information and records.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 54-61-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-61-04. Records, files, and information - Accessibility - Confidentiality.**

Any file, record, or information regarding representation of a defendant under sections 54-61-01 through 54-61-03 which are attorney work-product or otherwise subject to any attorney-client privilege are confidential and may not be disclosed except in accordance with a court order or in response to applicable discovery rules. All other case-related records are exempt from disclosure except as otherwise provided in rules adopted by the commission. Information or records obtained by the commission relating to allegations of misconduct by an attorney in the employ of, or providing indigent services for, the commission are exempt from disclosure except as otherwise provided in rules adopted by the commission unless and until the matter is referred for formal disposition under rules adopted by the supreme court.

Approved March 23, 2007  
Filed March 23, 2007

**CHAPTER 496****SENATE BILL NO. 2288**

(Senators Nething, Erbele, Heitkamp)  
(Representatives DeKrey, Gulleson, Nelson)

**RENEWABLE ENERGY COUNCIL**

AN ACT to provide for a biomass energy center; to create and enact a new chapter to title 54 of the North Dakota Century Code, relating to a renewable energy council and development fund; to amend and reenact sections 4-14.1-09 and 39-04-39 of the North Dakota Century Code, relating to ethanol and renewable fuels incentives and distribution of motor vehicle registration fees; to provide an appropriation; and to provide a continuing appropriation.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 4-14.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**4-14.1-09. Subsidy limitations.** The office of renewable energy and energy efficiency may not distribute more than one million six hundred thousand dollars per eligible facility annually in payments under section 4-14.1-08 and may not distribute any payment that would create a negative ethanol production incentive fund balance. If the incentive fund balance is insufficient to pay all valid incentive requests received in any quarter, the funds available must be paid out on a pro rata basis and obligations may not be carried forward. No eligible facility may receive state ethanol payments that exceed a cumulative total of ten million dollars or for longer than ten years. Change in ownership of an eligible facility does not affect the ten million dollar cumulative total allowed to be paid to that eligible facility under this section or the ten-year limitation contained in this section.

**SECTION 2. State board of higher education - Biomass energy center.** The state board of higher education is encouraged to establish or name a biomass energy center or centers at an institution or institutions under the control of the board to conduct research and provide education and technical assistance related to biomass production, harvesting, transportation, and conversion.

**SECTION 3. Biomass research responsibilities.** If established or named by the state board of higher education, the biomass energy center or centers shall:

1. Complete agronomic research to determine the most efficient perennial grasses or other plants for cellulose production and the amount of fertilization required.
2. Conduct research to determine the most efficient method of harvesting biomass.
3. Determine the benefits of biomass densification or preprocessing.
4. Complete an economic evaluation of all steps in the utilization of biomass for energy.

**SECTION 4. Ethanol and biomass incentives.** If established or named by the state board of higher education, the biomass energy center or centers shall work to identify and evaluate incentives for cellulosic ethanol production and biomass energy through the legislative assembly or at the federal level. The center or centers shall identify and evaluate incentives for producers, such as providing payment for producers to grow a dedicated bio-energy crop or support equipment, harvesting, and transportation costs.

**SECTION 5. Funding.** The biomass energy center or centers shall seek funding to continue perennial biomass production research and education.

**SECTION 6. AMENDMENT.** Section 39-04-39 of the North Dakota Century Code is amended and reenacted as follows:

**39-04-39. Distribution of registration fees collected.** Any moneys in the registration fund accruing from license fees or from other like sources, in excess of the amount required to pay salaries and other necessary expenses, in accordance with the legislative assembly's appropriation for such purposes, must be promptly deposited in the highway tax distribution fund which must be distributed in the manner as prescribed by law. The state treasurer shall transfer annually from the highway tax distribution fund to the ethanol production incentive fund an amount equal to forty percent of all sums collected for the registration of farm vehicles under subsection 5 of section 39-04-19 except that no transfer may be made in an amount that would result in the balance of the ethanol production incentive fund exceeding ~~five~~ seven million five hundred thousand dollars.

**SECTION 7.** A new chapter to title 54 of the North Dakota Century Code is created and enacted as follows:

**Renewable energy council - Composition.** The industrial commission shall consult with the renewable energy council in matters of policy affecting the administration of the renewable energy development fund.

1. The renewable energy council consists of:
  - a. The commissioner of commerce or the commissioner's designee.
  - b. A member with a substantial interest in the agriculture industry appointed by the governor.
  - c. A member with a substantial interest in the biodiesel industry appointed by the governor representing biodiesel interests.
  - d. A member with a substantial interest in the biomass industry appointed by the governor representing biomass interests.
  - e. A member with a substantial interest in the wind industry appointed by the governor representing wind interests.
  - f. A member with a substantial interest in the ethanol industry appointed by the governor representing ethanol interests.
2. Subject to subsection 6, the terms of office for members of the council are three years but of those first appointed, two serve for one year, two serve for two years, and three serve for three years.

3. The commissioner of commerce shall serve as chairman.
4. The council shall have at least one regular meeting each year and such additional meetings as the chairman determines necessary at a time and place to be fixed by the chairman. Special meetings must be called by the chairman on written request of any three members. Four members constitute a quorum.
5. The council shall recommend to the industrial commission the approval of grants, loans, or other financial assistance necessary or appropriate for funding, research, development, marketing, and educational projects or activities and any other matters related to this chapter. Any grants, loans, or other financial assistance must be matched on a dollar-for-dollar basis.
6. Members of the council serve at the pleasure of the governor.

**Access to council records.**

1. Materials and data submitted to, or made or received by, the council or industrial commission, to the extent that the council or industrial commission determines the materials or data consist of trade secrets or commercial, financial, or proprietary information of individuals or entities applying to or contracting with the commission or receiving council or industrial commission services under this chapter, are subject to section 44-04-18.4.
2.
  - a. A person or entity must file a request with the council or industrial commission to have material designated as confidential under subsection 1. The request must contain any information required by the council or industrial commission and must include at least:
    - (1) A general description of the nature of the information sought to be protected.
    - (2) An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.
    - (3) An explanation of why the information is not readily ascertainable by proper means by other persons.
    - (4) A general description of a person or entity that may obtain economic value from disclosure or use of the information, and how the person or entity may obtain this value.
    - (5) A description of the efforts used to maintain the secrecy of the information.
  - b. The fact that a request has been made is exempt.
3. The information submitted pursuant to subsection 2 is confidential. The council or industrial commission shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the council or industrial commission determines the

information is either not relevant or not a trade secret, the council or industrial commission shall notify the requester and the requester may ask for the return of the information and request within ten days of the notice. If no return is sought, the information and request are a public record.

4. The names or identities of independent technical reviewers on a project or program and the names of council members making recommendations are confidential, may not be disclosed by the council, and are not public records subject to section 44-04-18 or section 6 of article XI of the Constitution of North Dakota.

**Industrial commission powers.**

1. The industrial commission may:
  - a. Make grants or loans, and provide other forms of financial assistance as necessary or appropriate, to qualified persons for feasibility studies, applied research and demonstrations, venture capital investments, grants and matching grants, and low-interest loans and loan buydowns to foster the development of renewable energy, including wind, biofuels, biomass, solar, hydroelectric, geothermal, and hydrogen, that is produced from the foregoing renewable energy sources.
  - b. Provide incentives for multifeed facilities to process corn ethanol, cellulosic ethanol, canola biodiesel, and soy biodiesel.
  - c. Provide incentives for scaleable technologies.
  - d. Provide incentives to increase efficiencies such as coproduct utilization technologies.
  - e. Execute contracts and all other instruments necessary or convenient for the performance of its powers and functions under this chapter.
  - f. Accept aid, grants, or contributions of money or other things of value from any source, to be held, used, and applied to carry out this chapter, subject to the conditions upon which the aid, grants, or contributions are made, including aid, grants, or contributions from any department, agency, or instrumentality of the United States for any purpose consistent with this chapter.
  - g. Establish interest buydown programs for equipment needed for production, harvest, storage, and transport under the special private lands open to sportsmen pilot program for native grass stands.
  - h. Fund technical assistance from the university system and private entities to producers.
2. The industrial commission shall contract with the department of commerce to provide technical assistance to the renewable energy council and the industrial commission to carry out and effectuate the purposes of this chapter, including pursuit of aid, grants, or contributions

of money or other things of value from any source for any purpose consistent with this chapter. The department may contract with a public or private third party to provide any or all of the technical assistance necessary to implement the purposes of this chapter.

**Renewable energy development fund - Continuing appropriation.** The renewable energy development fund is a special fund in the state treasury. All funds in the renewable energy development fund are appropriated to the industrial commission on a continuing basis for the purpose of carrying out and effectuating this chapter. Interest earned by the fund must be credited to the fund.

**SECTION 8. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$3,000,000, or so much of the sum as may be necessary, and \$17,000,000 in special funds, or so much of the sum as may be necessary, to the industrial commission for the purpose of carrying out the renewable energy development functions under section 7 of this Act, for the biennium beginning July 1, 2007, and ending June 30, 2009.

Approved April 27, 2007  
Filed April 30, 2007